

## SIXTY FIFTH LEGISLATURE - REGULAR SESSION

## SEVENTY NINTH DAY

House Chamber, Olympia, Tuesday, March 28, 2017

The House was called to order at 9:55 a.m. by the Speaker (Representative Lovick presiding).

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

## RESOLUTIONS

**HOUSE RESOLUTION NO. 2017-4629, by Representative Sullivan**

WHEREAS, It is the policy of the Washington State Legislature to recognize extraordinary achievement; and

WHEREAS, The Kentridge High School Girls Basketball team demonstrated a high level of skill and perseverance in winning the 2017 4A Girls Basketball Championship; and

WHEREAS, The extraordinary individual and team effort led the Kentridge Chargers to a 60-46 victory over Glacier Peak in the title game; and

WHEREAS, The Chargers made history by winning their first championship for their high school and the community; and

WHEREAS, The Chargers' commitment to preparation and to each other is a prime example of overcoming adversity; and

WHEREAS, Head Coach Bob Sandall established a culture of dedication and collaboration that guided the Chargers through a long season and into the championship game; and

WHEREAS, The Chargers' road to victory was paved by the boundless support of their families and the Kentridge community;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor the Kentridge Chargers Girls Basketball team, whose dedication, perseverance, and accomplishments made them holders of the 2017 4A Girls Basketball State Title; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Kentridge High School Girls Basketball team, to the team's managers and coaches, and to the Kentridge High School principal.

HOUSE RESOLUTION NO. 4629 was adopted.

**HOUSE RESOLUTION NO. 2017-4630, by Representative Sullivan**

WHEREAS, It is the policy of the Washington State Legislature to recognize extraordinary achievement; and

WHEREAS, The Kentwood High School Boys Basketball team lost to Federal Way in the 2016 4A State Championship Game; and

WHEREAS, This year, however, the Kentwood High School Boys Basketball team defeated that same Federal Way team during the regular season, snapping Federal Way's record-setting 63-game winning streak; and

WHEREAS, Kentwood's team went on to claim the league title and the district title; and

WHEREAS, In the 2017 4A State Championship Game, despite trailing Union High School at half-time, Kentwood completed a dramatic comeback and defeated Union 81-61 in a blowout victory; and

WHEREAS, In completing the comeback, Kentwood claimed the 2017 4A Washington State Basketball Championship for the third time in school history; and

WHEREAS, The title victory and historic season were only achieved through dedicated teamwork and boundless support from family and community;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor the Kentwood High School Boys Basketball team for winning the 4A State Basketball Championship; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to the Kentwood High School Boys Basketball team, to the team's managers and coaches, and to the Kentwood High School principal.

HOUSE RESOLUTION NO. 4630 was adopted.

**HOUSE RESOLUTION NO. 2017-4631, by Representatives Santos, Pettigrew, Fitzgibbon, Haler, Macri, Pollet, Ryu, Senn, Nealey, Chapman, Appleton, Kilduff, Holy, Dent, Johnson, and Graves**

WHEREAS, In 1891, the Society of Jesus established the Immaculate Conception Church parish school in central Seattle with ninety students, marking the commencement of a long, rich history of distinguished service in higher education in Washington state; and

WHEREAS, In 1898, Washington state approved a charter to recognize the Immaculate Conception parish school as Seattle College; and

WHEREAS, In 1931, overcoming provincial and diocesan disapproval, Seattle College was one of the first Jesuit universities to admit women as students, many of whom taught in local parish schools; and

WHEREAS, By 1941, Seattle College was the third largest institution of higher learning in Washington state with schools of education, nursing, and engineering; and

WHEREAS, In 1948, Seattle College officially became Seattle University, the largest Catholic postsecondary education institution in the West; and

WHEREAS, Today, Seattle University is hailed as a nationally recognized higher education institution that boasts undergraduate, graduate, and professional degree programs of distinction through the College of Nursing, the College of Education, the Albers School of Business and Economics, the School of Theology and Ministry, the College of Arts and Sciences, the School of Law, the College of Science and Engineering, and the preparatory Matteo Ricci College; and

WHEREAS, The Seattle University mission to educate the whole person and to empower leaders for a just and humane world enriches our state and our society through the accomplishments and achievements of notable alumni such as Governor John Spellman, U.S. District Court Judge Richard Jones, Seattle City Councilmember Martha Choe, world-renown mountaineer Jim Whittaker, Seattle Times former president and chief operating officer Carolyn Kelly, attorney and television personality Anne Bremner, Grammy Award winning musician Quincy Jones, Northwest artist and professor Val Laigo, and National Basketball Association All-Time great Elgin Baylor; and

WHEREAS, Throughout the 2016-17 academic year, the entire Seattle University community will engage in special Quasiquicentennial events and programs aimed to pay homage to this cherished history and heritage of academic excellence and service to society;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives join in celebrating the 125th anniversary of the founding of Seattle University and recognize the lasting contributions of this irreplaceable institution, its faculty, and its alumni to the strength and vitality of our state and our citizenry; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Stephen V. Sundborg, S. J., President of Seattle University.

HOUSE RESOLUTION NO. 4631 was adopted.

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

## INTRODUCTION & FIRST READING

HB 2185 by Representatives Lytton, Jinkins and Macri

AN ACT Relating to fulfilling the state's paramount duty for all children through equitable and responsible investments in the state's basic education program and reductions to local effort contributions; amending RCW 28A.150.200, 28A.150.410, 28A.400.205, 28A.400.200, 28A.510.250, 84.52.0531, 84.52.0531, 28A.500.020, 28A.500.020, 28A.150.260, and 28A.150.261; amending 2015 3rd sp.s. c 38 s 3 (uncodified); reenacting and amending RCW 28A.500.030 and 28A.150.260; adding new sections to chapter 28A.150 RCW; adding a new section to chapter 28A.400 RCW; adding new sections to chapter 28A.415 RCW; creating new sections; recodifying RCW 28A.300.600, 28A.300.602, and 28A.300.604; repealing RCW 28A.400.201, 28A.415.020, 28A.415.023, 28A.415.024, and 28A.415.025; providing effective dates; and providing expiration dates.

Referred to Committee on Appropriations.

HB 2186 by Representatives Lytton, Jinkins and Macri

AN ACT Relating to investing in Washington families by improving the fairness of the state's excise tax system by narrowing or eliminating tax preferences, imposing a business and occupation tax surcharge while eliminating tax liability for small businesses, enacting an excise tax on capital gains, modifying the real estate excise tax, making administrative changes, and implementing marketplace fairness in Washington; amending RCW 82.32.045, 82.08.0293, 82.12.0293, 82.12.0263, 82.04.290, 82.08.0273, 82.45.060, 82.45.010, 82.45.080, 18.27.110, 18.27.200, 82.08.050, 82.12.040, 82.32.145, 82.32.060, 82.04.293, 82.04.440, 82.04.44525, and 82.04.4463; reenacting and amending RCW 82.04.280 and 82.32.790; adding new sections to chapter 82.04 RCW; adding new sections to chapter 82.32 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 43.135 RCW; adding a new section to chapter 39.42 RCW; adding new chapters to Title 82 RCW; creating new sections; repealing RCW 82.04.4451 and 82.04.272; repealing 2010 c 106 s 206, 2009 c 461 s 3, 2006 c 300 s 7, and 2003 c 149 s 4; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Finance.

HB 2187 by Representatives Manweller, Hayes and Griffey

AN ACT Relating to the eligibility of emergency medical technicians employed by public hospital districts for membership in the law enforcement officers' and firefighters' retirement system plan 2;

amending RCW 41.26.030; adding a new section to chapter 41.26 RCW; and creating new sections.

Referred to Committee on Appropriations.

ESSB 5033 by Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Honeyford, Frockt, Warnick, Conway and Palumbo)

AN ACT Relating to financing essential public infrastructure; amending RCW 43.155.020, 43.155.040, 43.155.060, 43.155.065, 43.155.068, 43.155.070, 43.155.075, 43.155.120, 82.45.060, 82.16.020, 82.18.040, and 39.36.060; reenacting and amending RCW 43.155.050; adding new sections to chapter 43.155 RCW; adding new sections to chapter 43.180 RCW; creating a new section; providing an effective date; providing a contingent effective date; and declaring an emergency.

Referred to Committee on Capital Budget.

ESSB 5894 by Senate Committee on Ways & Means (originally sponsored by Senators O'Ban, Darneille, Braun, Becker, Rossi, Brown, Miloscia, Cleveland, Ranker, Chase, Warnick, Keiser, Hunt, Hasegawa, Wellman and Zeiger)

AN ACT Relating to behavioral health system reform; amending RCW 71.24.310, 71.24.380, 71.05.320, 71.05.320, 71.05.365, 71.05.585, 71.05.150, 71.05.150, 71.05.150, 71.05.240, 71.05.240, 71.05.590, 71.05.590, 71.05.590, 10.77.060, and 10.77.060; reenacting and amending RCW 71.05.320, 71.05.020, 71.05.020, 71.05.585, 71.05.230, 71.05.230, 71.05.240, and 71.05.201; adding new sections to chapter 71.24 RCW; adding new sections to chapter 71.05 RCW; adding a new section to chapter 72.23 RCW; creating new sections; providing effective dates; and providing expiration dates.

Referred to Committee on Appropriations.

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

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

## REPORTS OF STANDING COMMITTEES

March 23, 2017

ESSB 5038 Prime Sponsor, Committee on Law & Justice: Concerning disclosures regarding incentivized evidence and testimony. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The definitions in this section apply throughout this section and sections 2 and 3 of this act unless the context clearly requires otherwise.

(1) "Benefit" means any deal, payment, promise, leniency, inducement, or other advantage offered by the state to an informant in exchange for his or her testimony, information, or statement, but excludes a court-issued protection order. "Benefit" also excludes assistance that is ordinarily provided to both a prosecution and defense witness to facilitate his or her presence in court including, but not limited to, lodging, meals, travel expenses, or parking fees.

(2)(a) "Informant" means the following individuals who provide information or testimony in exchange for a benefit or in reliance on a communicated benefit:

(i) Any criminal suspect, whether or not he or she is detained or incarcerated; and

(ii) Any incarcerated individual.

(b) An informant does not include an expert witness or a victim of the crime being prosecuted.

(3) "Statement" means an oral, written, or nonverbal communication related to the crime charged.

**NEW SECTION. Sec. 2.** (1) Before the state may introduce any testimony or statement of an informant in a trial or other criminal proceeding, the state must:

(a) Request the material and information in subsection (2) of this section from the investigative agency, the informant, and prosecutors and investigative agencies in jurisdictions where the informant has a criminal record or pending criminal charges; and

(b) Disclose to the defendant the results of the requests in (a) of this subsection, and any other material and information in subsection (2) of this section that is known or reasonably available to be obtained from a review of material and information internal to the office of the prosecuting attorney.

(2) The following material and information must be disclosed pursuant to subsection (1) of this section:

(a) The complete criminal history of the informant, including any pending criminal charges or investigations in which the informant is a suspect;

(b) Any benefit the state has provided or may provide in the future to the informant in the present case, including any written agreement related to a benefit, and information related to the informant's breach of any conditions contained within the agreement;

(c) The substance, time, and place of any statement allegedly given by the defendant to the informant, and the substance, time, and place of any statement given by the informant to law enforcement implicating the defendant in the crime charged, including the names of all persons present when any statement was allegedly given by the defendant to the informant;

(d) Any instance that the informant modified or recanted his or her testimony or statement, the time and place of the modification or recantation, the nature of the modification or recantation, and the names of the persons who were present at the modification or recantation;

(e) All other cases in which the informant offered to provide information to or testify for the state in exchange for a deal, payment, promise, leniency, inducement, or other advantage, whether or not a deal, payment, promise, leniency, inducement, or other advantage was offered or received;

(f) All other cases in which the informant testified for the state in exchange for a benefit, or in which the informant received any benefit as a result of that testimony;

(g) The relationship between the defendant and the informant, including the amount of time they were incarcerated in the same custodial section of the jail or prison;

(h) All evidence corroborating the informant's testimony or statement implicating the defendant in the crime charged; and

(i) Any other material or information in the possession, custody, or control of the state that bears on the credibility or reliability of the informant or the informant's statement.

(3)(a) The state must disclose to the defendant the materials and information required under subsections (1) and (2) of

this section as soon as practicable after discovery but no later than fourteen days before the testimony or statement is introduced in a trial or other criminal proceeding.

(b) The state may not introduce any testimony or statement of an informant in a trial or other criminal proceeding unless the materials and information required to be disclosed in subsections (1) and (2) of this section are disclosed in accordance with this subsection (3).

NEW SECTION. **Sec. 3.** If the state fails to disclose the materials and information required under section 2 of this act, the court must order the state to immediately disclose the material and information, and may:

(1) Grant a continuance, unless waived by the defendant;

(2) Preclude the informant from testifying or the prior statement from being introduced;

(3) Dismiss the action; or

(4) Enter such other order as it deems just under the circumstances.

NEW SECTION. **Sec. 4.** Nothing in sections 1 through 3 of this act diminishes federal constitutional disclosure obligations to criminal defendants or any related obligations under Washington case law, statutes, or court rules.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act are each added to chapter 10.58 RCW.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Frame; Goodman; Graves; Haler; Hansen; Kirby; Orwall and Shea.

MINORITY recommendation: Do not pass. Signed by Representative Klippert.

MINORITY recommendation: Without recommendation. Signed by Representatives Rodne, Ranking Minority Member Muri, Assistant Ranking Minority Member.

Referred to Committee on Rules for second reading.

March 23, 2017

ESSB 5106 Prime Sponsor, Committee on Human Services, Mental Health & Housing: Clarifying obligations under the involuntary treatment act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Part One - Joel's Law Amendments

Sec. 1. RCW 71.05.201 and 2016 c 107 s 1 are each amended to read as follows:

(1) If a designated mental health professional decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated mental health professional received a request for investigation and the designated mental health professional has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated mental health professional investigation or the request for a designated mental health professional investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated mental health professional investigation.

(3)(a) The petition must be filed in the county in which the designated mental health professional investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated mental health professional.

((3)) (4) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated mental health professional agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated mental health professional's current decision.

((4)) (5) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

((5)) (6) The court shall dismiss the petition at any time if it finds that a designated mental health professional has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

((6)) (7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention if the court finds that: (a) There is probable cause to support a petition for detention; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

((7)) (8) If the court enters an order for initial detention, it shall provide the order to the designated mental health professional agency((, which shall execute the order without delay)) and issue a written order for apprehension of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated mental health professional. The designated mental health agency serving the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this

subsection, including sharing of information relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive if the person were detained by a designated mental health professional. An order for initial detention under this section expires one hundred eighty days from issuance.

((8)) (9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

((9)) (10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

Sec. 2. RCW 71.05.201 and 2016 sp.s. c 29 s 222 and 2016 c 107 s 1 are each reenacted and amended to read as follows:

(1) If a designated crisis responder decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated crisis responder received a request for investigation and the designated crisis responder has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2) A petition under this section must be filed within ten calendar days following the designated crisis responder investigation or the request for a designated crisis responder investigation. If more than ten days have elapsed, the immediate family member, guardian, or conservator may request a new designated crisis responder investigation.

(3)(a) The petition must be filed in the county in which the designated ((mental health professional)) crisis responder investigation occurred or was requested to occur and must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired,

describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated crisis responder.

((3)) (4) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated crisis responder agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information material to the designated crisis responder's current decision.

((4)) (5) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

((5)) (6) The court shall dismiss the petition at any time if it finds that a designated crisis responder has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

((6)) (7) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention if the court finds that: (a) There is probable cause to support a petition for detention; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

((7)) (8) If the court enters an order for initial detention, it shall provide the order to the designated crisis responder agency((, which shall

execute the order without delay)) and issue a written order for apprehension of the person by a peace officer for delivery of the person to a facility or emergency room determined by the designated crisis responder. The designated crisis responder agency serving the jurisdiction of the court must collaborate and coordinate with law enforcement regarding apprehensions and detentions under this subsection, including sharing of information relating to risk and which would assist in locating the person. A person may not be detained to jail pursuant to a written order issued under this subsection. An order for detention under this section should contain the advisement of rights which the person would receive if the person were detained by a designated crisis responder. An order for initial detention under this section expires one hundred eighty days from issuance.

((8)) (9) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

((9)) (10) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

Sec. 3. RCW 71.05.203 and 2015 c 258 s 3 are each amended to read as follows:

(1) The department and each ((regional support network)) behavioral health organization or agency employing designated mental health professionals shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated mental health professional or designated mental health professional agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW 71.05.201. If the designated mental health professional decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight

hours have elapsed since the request for investigation was received and the designated mental health professional has not taken action to have the person detained, the designated mental health professional or designated mental health professional agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201.

(3) A designated mental health professional or designated mental health professional agency must, upon request, disclose the date of a designated mental health professional investigation under this chapter to an immediate family member, guardian, or conservator of a person to assist in the preparation of a petition under RCW 71.05.201.

Sec. 4. RCW 71.05.203 and 2016 sp.s. c 29 s 223 are each amended to read as follows:

(1) The department and each behavioral health organization or agency employing designated crisis responders shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under RCW 71.05.201.

(2) A designated crisis responder or designated crisis responder agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under RCW 71.05.201. If the designated crisis responder decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated crisis responder has not taken action to have the person detained, the designated crisis responder or designated crisis responder agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under RCW 71.05.201.

(3) A designated crisis responder or designated crisis responder agency must, upon request, disclose the date of a designated crisis responder

investigation under this chapter to an immediate family member, guardian, or conservator of a person to assist in the preparation of a petition under RCW 71.05.201.

NEW SECTION. Sec. 5. By December 15, 2017, the administrative office of the courts, in collaboration with stakeholders, including but not limited to judges, prosecutors, defense attorneys, the department of social and health services, behavioral health advocates, and families, shall: (1) Develop a user's guide to assist pro se litigants in the preparation and filing of a petition under RCW 71.05.201; and (2) develop a model order of detention under RCW 71.05.201 which contains an advisement of rights for the detained person.

NEW SECTION. Sec. 6. Sections 1 and 3 of this act expire April 1, 2018.

NEW SECTION. Sec. 7. Sections 2 and 4 of this act take effect April 1, 2018.

Part Two - Less Restrictive Alternative Revocations

Sec. 8. RCW 71.05.590 and 2015 c 250 s 13 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated mental health professional, may take action to enforce, modify, or revoke a less restrictive alternative order or conditional release order ((if)). The agency, facility, or designated mental health professional ((determines)) must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal

autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel((,)) or advise((, or admonish)) the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) ((To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d)) To cause the person to be transported by a peace officer, designated mental health professional, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or evaluation and treatment facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated mental health professional or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation or

modification procedures under ((subsection (4) of)) this section in appropriate circumstances; and

((e)) (d) To initiate revocation or modification procedures under ((subsection (4) of)) this section. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated mental health professional when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated mental health professional or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this section to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment, or initiate proceedings under ((this)) subsection ((4)) (5) of this section without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated mental health professional or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

((c)) (5)(a) The designated mental health professional or secretary shall ((notify the court that originally ordered commitment within two judicial days of a person's detention and)) file a petition for revocation ((petition)) or modification and an order of apprehension and detention, if applicable, with the

court ((and)) of the county where the person is currently located or being detained. The designated mental health professional shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings ((regarding a petition for modification or revocation must be in)) is the county ((in which)) where the petition ((was)) is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation or modification is filed, within two judicial days of the person's detention.

((d)) (b) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order.

((e)) (c) Revocation proceedings under this subsection ((4)) (5) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.

((5)) (6) In determining whether or not to take action under this section the designated mental health professional, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors

specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

Sec. 9. RCW 71.05.590 and 2016 sp.s. c 29 s 242 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative order or conditional release order ((if)). The agency, facility, or designated crisis responder ((determines)) must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel((,)) or advise((, or admonish)) the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) ((To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give rise to the request and what modification

is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

(d)) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure detoxification facility with available space or an approved substance use disorder treatment program with available space if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation or modification procedures under ((subsection (4) of)) this section in appropriate circumstances; and

((e)) (d) To initiate revocation or modification procedures under ((subsection (4) of)) this section. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated crisis responder or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure detoxification facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment and has adequate space. Proceedings under ((this)) subsection ((4)) (5) of this section may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

((c)) (5)(a) The designated crisis responder or secretary shall ((notify the court that originally ordered commitment within two judicial days of a person's detention and)) file a petition for revocation ((petition)) or modification and an order of apprehension and detention, if applicable, with the court ((and)) of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any

involuntary treatment proceeding, except as specifically set forth in this section. There is no right to jury trial. The venue for proceedings ((regarding a petition for modification or revocation must be in)) is the county ((in which)) where the petition ((was)) is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation or modification is filed, within two judicial days of the person's detention.

((d)) (b) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order. A court may not issue an order to detain a person for inpatient treatment in a secure detoxification facility or approved substance use disorder treatment program under this subsection unless there is a secure detoxification facility or approved substance use disorder treatment program available and with adequate space for the person.

((e)) (c) Revocation proceedings under this subsection ((4)) (5) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.

((5)) (6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the

court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

Sec. 10. RCW 71.05.590 and 2016 sp.s. c 29 s 243 are each amended to read as follows:

(1) Either an agency or facility designated to monitor or provide services under a less restrictive alternative order or conditional release order, or a designated crisis responder, may take action to enforce, modify, or revoke a less restrictive alternative order or conditional release order ((if)). The agency, facility, or designated crisis responder ((determines)) must determine that:

(a) The person is failing to adhere to the terms and conditions of the court order;

(b) Substantial deterioration in the person's functioning has occurred;

(c) There is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further evaluation, intervention, or treatment; or

(d) The person poses a likelihood of serious harm.

(2) Actions taken under this section must include a flexible range of responses of varying levels of intensity appropriate to the circumstances and consistent with the interests of the individual and the public in personal autonomy, safety, recovery, and compliance. Available actions may include, but are not limited to, any of the following:

(a) To counsel((,)) or advise((, or admonish)) the person as to their rights and responsibilities under the court order, and to offer appropriate incentives to motivate compliance;

(b) To increase the intensity of outpatient services provided to the person by increasing the frequency of contacts with the provider, referring the person for an assessment for assertive community services, or by other means;

(c) ((To request a court hearing for review and modification of the court order. The request must be made to the court with jurisdiction over the order and specify the circumstances that give

rise to the request and what modification is being sought. The county prosecutor shall assist the agency or facility in requesting this hearing and issuing an appropriate summons to the person. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration;

((d)) To cause the person to be transported by a peace officer, designated crisis responder, or other means to the agency or facility monitoring or providing services under the court order, or to a triage facility, crisis stabilization unit, emergency department, or to an evaluation and treatment facility if the person is committed for mental health treatment, or to a secure detoxification facility or an approved substance use disorder treatment program if the person is committed for substance use disorder treatment. The person may be detained at the facility for up to twelve hours for the purpose of an evaluation to determine whether modification, revocation, or commitment proceedings are necessary and appropriate to stabilize the person and prevent decompensation, deterioration, or physical harm. Temporary detention for evaluation under this subsection is intended to occur only following a pattern of noncompliance or the failure of reasonable attempts at outreach and engagement, and may occur only when in the clinical judgment of a designated crisis responder or the professional person in charge of an agency or facility designated to monitor less restrictive alternative services temporary detention is appropriate. This subsection does not limit the ability or obligation to pursue revocation or modification procedures under ((subsection (4) of)) this section in appropriate circumstances; and

((e)) (d) To initiate revocation or modification procedures under ((subsection (4) of)) this section. This subsection does not limit the inherent authority of a treatment provider to alter conditions of treatment for clinical reasons, and is intended to be used only when court intervention is necessary or advisable to secure the person's compliance and prevent decompensation or deterioration.

(3) The facility or agency designated to provide outpatient treatment shall notify the secretary or designated crisis responder when a person fails to adhere to terms and conditions of court ordered treatment or experiences substantial deterioration in his or her condition and, as a result, presents an increased likelihood of serious harm.

(4)(a) A designated crisis responder or the secretary may upon their own motion or notification by the facility or agency designated to provide outpatient care order a person subject to a court order under this chapter to be apprehended and taken into custody and temporary detention in an evaluation and treatment facility in or near the county in which he or she is receiving outpatient treatment if the person is committed for mental health treatment, or, if the person is committed for substance use disorder treatment, in a secure detoxification facility or approved substance use disorder treatment program if either is available in or near the county in which he or she is receiving outpatient treatment. Proceedings under ((this)) subsection ((4)) (5) of this section may be initiated without ordering the apprehension and detention of the person.

(b) A person detained under this subsection (4) must be held until such time, not exceeding five days, as a hearing can be scheduled to determine whether or not the person should be returned to the hospital or facility from which he or she had been released. If the person is not detained, the hearing must be scheduled within five days of service on the person. The designated crisis responder or the secretary may modify or rescind the order at any time prior to commencement of the court hearing.

((c)) (5)(a) The designated crisis responder or secretary shall ((notify the court that originally ordered commitment within two judicial days of a person's detention and)) file a petition for revocation ((petition)) or modification and an order of apprehension and detention, if applicable, with the court ((and)) of the county where the person is currently located or being detained. The designated crisis responder shall serve the person and their attorney, guardian, and conservator, if any. The person has the same rights with respect to notice, hearing, and counsel as in any involuntary treatment proceeding, except

as specifically set forth in this section. There is no right to jury trial. The venue for proceedings ((regarding a petition for modification or revocation must be in)) is the county ((in which)) where the petition ((was)) is filed. Notice of the filing must be provided to the court that originally ordered commitment, if different from the court where the petition for revocation or modification is filed, within two judicial days of the person's detention.

((d)) (b) The issues for the court to determine are whether: (i) The person adhered to the terms and conditions of the court order; (ii) substantial deterioration in the person's functioning has occurred; (iii) there is evidence of substantial decompensation with a reasonable probability that the decompensation can be reversed by further inpatient treatment; or (iv) there is a likelihood of serious harm; and, if any of the above conditions apply, whether the court should reinstate or modify the person's less restrictive alternative or conditional release order or order the person's detention for inpatient treatment. The person may waive the court hearing and allow the court to enter a stipulated order upon the agreement of all parties. If the court orders detention for inpatient treatment, the treatment period may be for no longer than the period authorized in the original court order.

((e)) (c) Revocation proceedings under this subsection ((4)) (5) are not allowable if the current commitment is solely based on the person being in need of assisted outpatient mental health treatment. In order to obtain a court order for detention for inpatient treatment under this circumstance, a petition must be filed under RCW 71.05.150 or 71.05.153.

((5)) (6) In determining whether or not to take action under this section the designated crisis responder, agency, or facility must consider the factors specified under RCW 71.05.212 and the court must consider the factors specified under RCW 71.05.245 as they apply to the question of whether to enforce, modify, or revoke a court order for involuntary treatment.

Part Three - Initial Detention Investigations

Sec. 11. RCW 71.05.154 and 2013 c 334 s 1 are each amended to read as follows:

((A)) (1) If a person subject to evaluation under RCW 71.05.150 or 71.05.153 is located in an emergency room at the time of evaluation, the designated mental health professional conducting ((an)) the evaluation ((of a person under RCW 71.05.150 or 71.05.153 must consult with any examining emergency room physician regarding the physician's observations and opinions relating to the person's condition, and whether, in the view of the physician, detention is appropriate. The designated mental health professional)) shall take serious consideration of observations and opinions by an examining emergency room physician((s)), advanced registered nurse practitioner, or physician assistant in determining whether detention under this chapter is appropriate. The designated mental health professional must document ((the)) his or her consultation with ((an examining emergency room physician)) this professional, ((including)) if the professional is available, or his or her review of the ((physician's)) professional's written observations or opinions regarding whether detention of the person is appropriate.

(2) This section does not create an exception to the general rule under RCW 71.05.010, which creates a presumption that courts should decide petitions under this chapter on their merits in light of the state's parens patriae or police power interest in protecting the safety of individuals and the public.

Sec. 12. RCW 71.05.154 and 2016 sp.s. c 29 s 214 are each amended to read as follows:

((A)) (1) If a person subject to evaluation under RCW 71.05.150 or 71.05.153 is located in an emergency room at the time of evaluation, the designated crisis responder conducting ((an)) the evaluation ((of a person under RCW 71.05.150 or 71.05.153 must consult with any examining emergency room physician regarding the physician's observations and opinions relating to the person's condition, and whether, in the view of the physician, detention is appropriate. The designated crisis responder)) shall take serious consideration of observations and opinions by an examining emergency room physician((s)), advanced registered nurse practitioner, or physician assistant in determining whether detention under this chapter is appropriate. The designated crisis

responder must document ((the)) his or her consultation with ((an examining emergency room physician)) this professional, ((including)) if the professional is available, or his or her review of the ((physician's)) professional's written observations or opinions regarding whether detention of the person is appropriate.

(2) This section does not create an exception to the general rule under RCW 71.05.010, which creates a presumption that courts should decide petitions under this chapter on their merits in light of the state's parens patriae or police power interest in protecting the safety of individuals and the public.

Part Four - Evaluation and Petition by Chemical

#### Dependency Professionals

Sec. 13. RCW 70.96A.140 and 2016 sp.s. c 29 s 102 are each amended to read as follows:

(1)(a) When a designated chemical dependency specialist receives information alleging that a person presents a likelihood of serious harm or is gravely disabled as a result of ((chemical dependency)) a substance use disorder, the designated chemical dependency specialist, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the information, may file a petition for commitment of such person with the superior court, district court, or in another court permitted by court rule.

If a petition for commitment is not filed in the case of a minor, the parent, guardian, or custodian who has custody of the minor may seek review of that decision made by the designated chemical dependency specialist in superior or district court. The parent, guardian, or custodian shall file notice with the court and provide a copy of the designated chemical dependency specialist's report.

If the designated chemical dependency specialist finds that the initial needs of such person would be better served by placement within the mental health system, the person shall be referred to either a designated mental health professional or an evaluation and treatment facility as defined in RCW 71.05.020 or 71.34.020.

(b) If placement in a ((chemical dependency)) substance use disorder treatment program is available and deemed appropriate, the petition shall allege that: The person is chemically dependent and presents a likelihood of serious harm or is gravely disabled by alcohol or drug addiction, or that the person has twice before in the preceding twelve months been admitted for withdrawal management, sobering services, or ((chemical dependency)) substance use disorder treatment pursuant to RCW 70.96A.110 or 70.96A.120, and is in need of a more sustained treatment program, or that the person ((is chemically dependent)) has a substance use disorder and has threatened, attempted, or inflicted physical harm on another and is likely to inflict physical harm on another unless committed. A refusal to undergo treatment, by itself, does not constitute evidence of lack of judgment as to the need for treatment.

(c) If involuntary detention is sought, the petition must state facts that support a finding of the grounds identified in (b) of this subsection and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition must state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition must state facts that support a finding of the grounds for commitment identified in (b) of this subsection and set forth the proposed less restrictive alternative.

(d) (i) The petition must be signed by:

(A) ((Two physicians;)) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) ((One physician and a mental health professional;

(C) One physician assistant and a mental health professional; or

(D) One psychiatric advanced registered nurse practitioner and a mental health professional.

(ii) The persons signing the petition must have examined the person)) One physician, physician assistant, psychiatric advanced registered nurse

practitioner, or designated chemical dependency specialist.

(2) Upon filing the petition, the court shall fix a date for a hearing no less than two and no more than seven days after the date the petition was filed unless the person petitioned against is presently being detained in a program, pursuant to RCW 70.96A.120, 71.05.210, or 71.34.710, in which case the hearing shall be held within seventy-two hours of the filing of the petition((: PROVIDED, HOWEVER, That)). The ((above specified)) seventy-two hours shall be computed by excluding Saturdays, Sundays, and holidays((: PROVIDED FURTHER, That,)). The court may, upon motion of the person whose commitment is sought, or upon motion of petitioner with written permission of the person whose commitment is sought, or his or her counsel and, upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served ((by the designated chemical dependency specialist)) on the person whose commitment is sought, his or her next of kin, a parent or his or her legal guardian if he or she is a minor, and any other person the court believes advisable. A copy of the petition and certificate shall be delivered to each person notified.

(3) At the hearing the court shall hear all relevant testimony including, if possible, the testimony, which may be telephonic, of at least one licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, or ((mental health professional)) designated chemical dependency specialist who has examined the person whose commitment is sought. Communications otherwise deemed privileged under the laws of this state are deemed to be waived in proceedings under this chapter when a court of competent jurisdiction in its discretion determines that the waiver is necessary to protect either the detained person or the public. The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person, or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical, nursing, or psychological records of detained persons so long as the requirements of RCW 5.45.020 are met, except that portions of the record that contain opinions as to whether the detained person ((is chemically dependent)) has a substance use disorder shall be deleted from the records unless the person offering the opinions is available for cross-examination. The person shall be present unless the court believes that his or her presence is likely to be injurious to him or her; in this event the court may deem it appropriate to appoint a guardian ad litem to represent him or her throughout the proceeding. If deemed advisable, the court may examine the person out of courtroom. If the person has refused to be examined by a licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, or ((mental health professional)) designated chemical dependency specialist, he or she shall be given an opportunity to be examined by a court appointed licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, or other professional person qualified to provide such services. If he or she refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing him or her to the department for a period of not more than five days for purposes of a diagnostic examination.

(4)(a) If, after hearing all relevant evidence, including the results of any diagnostic examination, the court finds that grounds for involuntary commitment have been established by a preponderance of the evidence and, after considering less restrictive alternatives to involuntary detention and treatment, finds that no such alternatives are in the best interest of the person or others, it shall make an order of commitment to an approved substance use disorder treatment program. It shall not order commitment of a person unless it determines that an approved substance use disorder treatment program is available and able to provide adequate and appropriate treatment for him or her.

(b) If the court finds that the grounds for commitment have been established by

a preponderance of the evidence, but that treatment in a less restrictive setting than detention is in the best interest of such person or others, the court shall order an appropriate less restrictive course of treatment. The less restrictive order may impose treatment conditions and other conditions that are in the best interest of the respondent and others. A copy of the less restrictive order must be given to the respondent, the designated chemical dependency specialist, and any program designated to provide less restrictive treatment. If the program designated to provide the less restrictive treatment is other than the program providing the initial involuntary treatment, the program so designated must agree in writing to assume such responsibility. The court may not order commitment of a person to a less restrictive course of treatment unless it determines that an approved substance use disorder treatment program is available and able to provide adequate and appropriate treatment for him or her.

(5) A person committed to inpatient treatment under this section shall remain in the program for treatment for a period of fourteen days unless sooner discharged. A person committed to a less restrictive course of treatment under this section shall remain in the program of treatment for a period of ninety days unless sooner discharged. At the end of the fourteen-day period, or ninety-day period in the case of a less restrictive alternative to inpatient treatment, he or she shall be discharged automatically unless the program or the designated chemical dependency specialist, before expiration of the period, files a petition for his or her recommitment upon the grounds set forth in subsection (1) of this section for a further period of ninety days of inpatient treatment or ninety days of less restrictive alternative treatment unless sooner discharged. The petition for ninety-day inpatient or less restrictive alternative treatment must be filed with the clerk of the court at least three days before expiration of the fourteen-day period of intensive treatment.

If a petition for recommitment is not filed in the case of a minor, the parent, guardian, or custodian who has custody of the minor may seek review of that decision made by the designated chemical dependency specialist in superior or district court. The parent, guardian, or custodian shall file notice with the

court and provide a copy of the treatment progress report.

If a person has been committed because he or she ((is chemically dependent)) has a substance use disorder and is likely to inflict physical harm on another, the program or designated chemical dependency specialist shall apply for recommitment if after examination it is determined that the likelihood still exists.

(6) Upon the filing of a petition for recommitment under subsection (5) of this section, the court shall fix a date for hearing no less than two and no more than seven days after the date the petition was filed((: PROVIDED, That,)). The court may, upon motion of the person whose commitment is sought and upon good cause shown, extend the date for the hearing. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served by the treatment program on the person whose commitment is sought, his or her next of kin, the original petitioner under subsection (1) of this section if different from the petitioner for recommitment, one of his or her parents or his or her legal guardian if he or she is a minor, and his or her attorney and any other person the court believes advisable. At the hearing the court shall proceed as provided in subsections (3) and (4) of this section, except that the burden of proof upon a hearing for recommitment must be proof by clear, cogent, and convincing evidence.

(7) The approved substance use disorder treatment program shall provide for adequate and appropriate treatment of a person committed to its custody on an inpatient or outpatient basis. A person committed under this section may be transferred from one approved public treatment program to another if transfer is medically advisable.

(8) A person committed to a program for treatment shall be discharged at any time before the end of the period for which he or she has been committed and he or she shall be discharged by order of the court if either of the following conditions are met:

(a) In case of a ((chemically dependent)) person with a substance use disorder committed on the grounds of likelihood of infliction of physical harm upon himself, herself, or another, the likelihood no longer exists; or further

treatment will not be likely to bring about significant improvement in the person's condition, or treatment is no longer adequate or appropriate.

(b) In case of a ((chemically dependent)) person with a substance use disorder committed on the grounds of the need of treatment and incapacity, that the incapacity no longer exists.

(9) The court shall inform the person whose commitment or recommitment is sought of his or her right to contest the application, be represented by counsel at every stage of any proceedings relating to his or her commitment and recommitment, and have counsel appointed by the court or provided by the court, if he or she wants the assistance of counsel and is unable to obtain counsel. If the court believes that the person needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for him or her regardless of his or her wishes. The person shall, if he or she is financially able, bear the costs of such legal service; otherwise such legal service shall be at public expense. The person whose commitment or recommitment is sought shall be informed of his or her right to be examined by a licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, designated chemical dependency specialist, or other professional person of his or her choice who is qualified to provide such services. If the person is unable to obtain a qualified person and requests an examination, the court shall employ a licensed physician, psychiatric advanced registered nurse practitioner, physician assistant, designated chemical dependency specialist, or other professional person to conduct an examination and testify on behalf of the person.

(10) A person committed under this chapter may at any time seek to be discharged from commitment by writ of habeas corpus in a court of competent jurisdiction.

(11) The venue for proceedings under this section is the county in which person to be committed resides or is present.

(12) When in the opinion of the professional person in charge of the program providing involuntary inpatient treatment under this chapter, the committed patient can be appropriately

served by less restrictive treatment before expiration of the period of commitment, then the less restrictive care may be required as a condition for early release for a period which, when added to the initial treatment period, does not exceed the period of commitment. If the program designated to provide the less restrictive treatment is other than the program providing the initial involuntary treatment, the program so designated must agree in writing to assume such responsibility. A copy of the conditions for early release shall be given to the patient, the designated chemical dependency specialist of original commitment, and the court of original commitment. The program designated to provide less restrictive care may modify the conditions for continued release when the modifications are in the best interests of the patient. If the program providing less restrictive care and the designated chemical dependency specialist determine that a conditionally released patient is failing to adhere to the terms and conditions of his or her release, or that substantial deterioration in the patient's functioning has occurred, then the designated chemical dependency specialist shall notify the court of original commitment and request a hearing to be held no less than two and no more than seven days after the date of the request to determine whether or not the person should be returned to more restrictive care. The designated chemical dependency specialist shall file a petition with the court stating the facts substantiating the need for the hearing along with the treatment recommendations. The patient shall have the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceedings. The issues to be determined at the hearing are whether the conditionally released patient did or did not adhere to the terms and conditions of his or her release to less restrictive care or that substantial deterioration of the patient's functioning has occurred and whether the conditions of release should be modified or the person should be returned to a more restrictive program. The hearing may be waived by the patient and his or her counsel and his or her guardian or conservator, if any, but may not be waived unless all such persons agree to the waiver. Upon waiver, the person may be returned for involuntary treatment or continued on conditional

release on the same or modified conditions. The grounds and procedures for revocation of less restrictive alternative treatment ordered by the court must be the same as those set forth in this section for less restrictive care arranged by an approved substance use disorder treatment program as a condition for early release.

Sec. 14. RCW 71.05.020 and 2016 sp.s. c 29 s 204 and 2016 c 155 s 1 are each reenacted and amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician, physician assistant, or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(3) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(4) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program certified by the department as meeting standards adopted under chapter 71.24 RCW;

(5) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(6) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more psychoactive chemicals, as the context requires;

(7) "Chemical dependency professional" means a person certified as a chemical dependency professional by the

department of health under chapter 18.205 RCW;

(8) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(9) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(10) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(11) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

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

(13) "Designated crisis responder" means a mental health professional appointed by the behavioral health organization to perform the duties specified in this chapter;

(14) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(16) "Developmental disability" means that condition defined in RCW 71A.10.020(5);

(17) "Discharge" means the termination of hospital medical authority. The

commitment may remain in place, be terminated, or be amended by court order;

(18) "Drug addiction" means a disease, characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning;

(19) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. The department may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(21) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(22) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility, a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction;

(23) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(24) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(25) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(26) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals;

(27) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation;

(28) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(29) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health and substance use disorder service providers under RCW 71.05.130;

(30) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(31) "Licensed physician" means a person licensed to practice medicine or

osteopathic medicine and surgery in the state of Washington;

(32) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(33) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated crisis responder;

(34) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(35) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(36) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders or substance use disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or behavioral health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, approved substance use

disorder treatment programs as defined in this section, secure detoxification facilities as defined in this section, and correctional facilities operated by state and local governments;

(37) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(38) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW;

(39) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, or approved substance use disorder treatment program, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders;

(40) "Professional person" means a mental health professional, chemical dependency professional, or designated crisis responder and shall also mean a physician, physician assistant, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(41) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(42) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(43) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(44) "Public agency" means any evaluation and treatment facility or institution, secure detoxification facility, approved substance use disorder treatment program, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, substance use disorders, or both mental illness and substance use disorders, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments;

(45) "Registration records" include all the records of the department, behavioral health organizations, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness or substance use disorders;

(46) "Release" means legal termination of the commitment under the provisions of this chapter;

(47) "Resource management services" has the meaning given in chapter 71.24 RCW;

(48) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(49) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that:

(a) Provides for intoxicated persons:

(i) Evaluation and assessment, provided by certified chemical dependency professionals;

(ii) Acute or subacute detoxification services; and

(iii) Discharge assistance provided by certified chemical dependency professionals, including facilitating transitions to appropriate voluntary or involuntary inpatient services or to less restrictive alternatives as appropriate for the individual;

(b) Includes security measures sufficient to protect the patients, staff, and community; and

(c) Is certified as such by the department;

(50) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(51) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(52) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances;

(53) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(54) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health organizations and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(55) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(56) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 15. RCW 71.05.210 and 2016 sp.s. c 29 s 224 and 2016 c 155 s 2 are each reenacted and amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician ((and a mental health professional)), physician assistant, or psychiatric advanced registered nurse practitioner; and

(ii) One ((physician assistant and a) mental health professional(; or

(iii) One advanced registered nurse practitioner and a mental health)). If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained

pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment ((facility)) program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement; however, a person may only be referred to a secure detoxification facility or approved substance use disorder treatment program if there is an available secure detoxification facility or approved substance use disorder treatment program with adequate space for the person.

(3) An evaluation and treatment center, secure detoxification facility, or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 16. RCW 71.05.210 and 2016 sp.s. c 29 s 225 are each amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility, secure detoxification facility, or approved substance use disorder treatment program:

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by:

(i) One physician ((and a mental health professional)), physician

assistant, or psychiatric advanced registered nurse practitioner; and

(ii) One ((physician assistant and a) mental health professional(; or

(iii) One advanced registered nurse practitioner and a mental health)). If the person is detained for substance use disorder evaluation and treatment, the person may be examined by a chemical dependency professional instead of a mental health professional; and

(b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional or chemical dependency professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person, if detained to an evaluation and treatment facility, would be better served by placement in a substance use disorder treatment ((facility)) program, or, if detained to a secure detoxification facility or approved substance use disorder treatment program, would be better served in an evaluation and treatment facility then the person shall be referred to the more appropriate placement.

(3) An evaluation and treatment center, secure detoxification facility,

or approved substance use disorder treatment program admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated crisis responder and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 17. RCW 71.05.230 and 2016 sp.s. c 29 s 230, 2016 c 155 s 5, and 2016 c 45 s 1 are each reenacted and amended to read as follows:

A person detained or committed for seventy-two hour evaluation and treatment or for an outpatient evaluation for the purpose of filing a petition for a less restrictive alternative treatment order may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder or substance use disorder and results in a likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The agency or facility providing intensive treatment or which proposes to supervise the less restrictive alternative is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated crisis responder has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed ((either)) by:

(a) ((Two physicians)) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(b) One physician ((and a)), physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional(;;

(c) One physician assistant and a mental health professional; or

(d) One psychiatric advanced registered nurse practitioner and a mental health professional)). If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of a mental disorder or substance use disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of a mental disorder or as a result of a substance use disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth any recommendations for less restrictive alternative treatment services; and

(5) A copy of the petition has been served on the detained or committed person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed for mental health treatment; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated crisis responder may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

Sec. 18. RCW 71.05.290 and 2016 sp.s. c 29 s 235, 2016 c 155 s 6, and 2016 c 45 s 3 are each reenacted and amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(a) ((Two physicians)) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(b) One physician ((and a)), physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional(;;

(c) One physician assistant and a mental health professional; or

(d) One psychiatric advanced registered nurse practitioner and a mental health professional)). If the petition is for substance use disorder treatment, the petition may be signed by a chemical dependency professional instead of a mental health professional. The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments

which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 19. RCW 71.05.760 and 2016 sp.s. c 29 s 201 are each amended to read as follows:

(1)(a) By April 1, 2018, the department, by rule, must combine the functions of a designated mental health professional and designated chemical dependency specialist by establishing a designated crisis responder who is authorized to conduct investigations, detain persons up to seventy-two hours to the proper facility, and carry out the other functions identified in this chapter and chapter 71.34 RCW. The behavioral health organizations shall provide training to the designated crisis responders as required by the department.

(b)(i) To qualify as a designated crisis responder, a person must have received chemical dependency training as determined by the department and be a:

(A) Psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or social worker;

(B) Person with a master's degree or further advanced degree in counseling or one of the social sciences from an accredited college or university and who have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the direction of a mental health professional;

(C) Person who meets the waiver criteria of RCW 71.24.260, which waiver was granted before 1986;

(D) Person who had an approved waiver to perform the duties of a mental health professional that was requested by the regional support network and granted by the department before July 1, 2001; or

(E) Person who has been granted an exception of the minimum requirements of a mental health professional by the department consistent with rules adopted by the secretary.

(ii) Training must include chemical dependency training specific to the duties of a designated crisis responder, including diagnosis of substance abuse and dependence and assessment of risk associated with substance use.

(c) The department must develop a transition process for any person who has been designated as a designated mental health professional or a designated chemical dependency specialist before April 1, 2018, to be converted to a designated crisis responder. The behavioral health organizations shall provide training, as required by the department, to persons converting to designated crisis responders, which must include both mental health and chemical dependency training applicable to the designated crisis responder role.

(2)(a) The department must ensure that at least one sixteen-bed secure detoxification facility is operational by April 1, 2018, and that at least two sixteen-bed secure detoxification facilities are operational by April 1, 2019. In addition, the department shall ensure that an additional sixteen-bed secure detoxification facility is operational by April 1st of each year beginning in 2020 until there is adequate capacity to meet the involuntary treatment requirements for substance use disorder clients.

(b) If, at any time during the implementation of secure detoxification facility capacity, federal funding becomes unavailable for federal match for services provided in secure detoxification facilities, then the department must cease any expansion of secure detoxification facilities until further direction is provided by the legislature.

NEW SECTION. Sec. 20. Section 13 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 21. Sections 8, 11, and 13 of this act expire April 1, 2018.

NEW SECTION. Sec. 22. Sections 9, 12, 14, 15, and 17 through 19 of this act take effect April 1, 2018.

NEW SECTION. Sec. 23. Sections 9 and 15 of this act expire July 1, 2026.

NEW SECTION. Sec. 24. Sections 10 and 16 of this act take effect July 1, 2026."

Correct the title.

Signed by Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Frame; Goodman; Graves; Haler; Hansen; Kirby; Klippert and Orwall.

MINORITY recommendation: Do not pass. Signed by Representative Shea.

Referred to Committee on Appropriations.

March 21, 2017

ESSB 5131 Prime Sponsor, Committee on Commerce, Labor & Sports: Concerning marijuana with respect to privileges for research licenses, local authority notifications, the retail licensing merit-based application process, processor wholesale events, certain transfers of plants and seeds, licensing agreements and contracts, residency requirements, and jurisdictional requirements. (REVISED FOR ENGROSSED: Concerning marijuana with respect to privileges for research licenses, local authority notifications, the retail licensing merit-based application process, certain transfers of plants and seeds, licensing agreements and contracts, advertising, and jurisdictional requirements.) Reported by Committee on Commerce & Gaming

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 69.50.325 and 2016 c 170 s 1 are each amended to read as follows:

(1) There shall be a marijuana producer's license regulated by the state liquor and cannabis board and subject to annual renewal. The licensee is authorized to produce: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana producers ((and to produce marijuana)); (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250((, regulated by the state liquor and cannabis board and subject to annual renewal)); and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as described under section 9 of this act. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the state liquor and cannabis board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at

which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the state liquor and cannabis board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the state liquor and cannabis board pursuant to this section.

(ii) The state liquor and cannabis board shall adopt rules to establish a

license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the state liquor and cannabis board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The state liquor and cannabis board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The state liquor and cannabis board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after the effective date of this section. However, no license of a marijuana retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first three calendar months of the effective date of this section.

Sec. 2. RCW 69.50.331 and 2015 2nd sp.s. c 4 s 301 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received. As part of the licensing application and renewal process, the board must obtain information and collect

demographic data regarding the race, ethnic background, and gender of the applicants for the licenses authorized under this chapter.

(a) ((The state liquor and cannabis board must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board must give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:

(i) First priority is given to applicants who:

(A) Applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;

(B) Operated or were employed by a collective garden before January 1, 2013;

(C) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(D) Have had a history of paying all applicable state taxes and fees;

(ii) Second priority must be given to applicants who:

(A) Operated or were employed by a collective garden before January 1, 2013;

(B) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(C) Have had a history of paying all applicable state taxes and fees; and

(iii) Third priority must be given to all other applicants who do not have the experience and qualifications identified in (a) (i) and (ii) of this subsection.

(b)) The state liquor and cannabis board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation

history record with the state liquor and cannabis board and a criminal history record information check. The state liquor and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the state liquor and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor and cannabis board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

((c)) (b) No license of any kind may be issued to:

(i) A person under the age of twenty-one years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2) (a) The state liquor and cannabis board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for

producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The state liquor and cannabis board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the state liquor and cannabis board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor and cannabis board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor and cannabis board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor and cannabis board or a subpoena issued by the state liquor and cannabis board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the state liquor and cannabis board. Where the license has been suspended only, the state liquor and cannabis board must return the license to the licensee at the expiration or termination of the period of suspension. The state liquor and cannabis board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the state liquor and cannabis board to implement and enforce this chapter. All conditions and restrictions imposed by the state liquor and cannabis board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of twenty-one years.

(7)(a) Before the state liquor and cannabis board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country under the jurisdiction of a federally recognized Indian tribe, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, ((or)) the county legislative authority or the official or employee selected by it, the tribal government, or

port authority has the right to file with the state liquor and cannabis board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor and cannabis board may extend the time period for submitting written objections upon request from the authority notified by the state liquor and cannabis board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor and cannabis board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor and cannabis board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor and cannabis board representatives must present and defend the state liquor and cannabis board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor and cannabis board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (d) of this subsection, the state liquor and cannabis board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described

in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The state liquor and cannabis board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(e)(i) The state liquor and cannabis board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any federal fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(ii) The state liquor and cannabis board may issue a license either upon receipt of the consent of the tribe required under (e)(i) of this subsection or after ninety days following the

board's provision of notice to the tribe, as required under subsection (7)(a) of this section, in the event the tribe fails to respond to such notice within this ninety-day period.

(iii) The provisions of this subsection (8)(e) are prospective only and apply only to applications for new licenses received on or after the effective date of this section.

(9) ((Subject to section 1601 of this act,)) A city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the state liquor and cannabis board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

Sec. 3. RCW 69.50.372 and 2016 sp.s. c 9 s 1 are each amended to read as follows:

(1) A marijuana research license is established that permits a licensee to produce, process, and possess marijuana for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of marijuana-derived drug products;

(c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and

(d) To conduct genomic or agricultural research.

(2) As part of the application process for a marijuana research license, an applicant must submit to the liquor and cannabis board's designated scientific reviewer a description of the research that is intended to be conducted. The liquor and cannabis board must select a scientific reviewer to review an applicant's research project and determine that it meets the requirements of subsection (1) of this section, as well as assess the following:

(a) Project quality, study design, value, or impact;

(b) Whether applicants have the appropriate personnel, expertise, facilities/infrastructure, funding, and human/animal/other federal approvals in place to successfully conduct the project; and

(c) Whether the amount of marijuana to be grown by the applicant is consistent with the project's scope and goals.

If the scientific reviewer determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The liquor and cannabis board may revoke a marijuana research license for violations of this subsection.

(4) A marijuana research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the scientific reviewer and meet the requirements of subsection (1) of this section.

(5) In establishing a marijuana research license, the liquor and cannabis board may adopt rules on the following:

- (a) Application requirements;
- (b) Marijuana research license renewal requirements, including whether additional research projects may be added or considered;
- (c) Conditions for license revocation;
- (d) Security measures to ensure marijuana is not diverted to purposes other than research;
- (e) Amount of plants, useable marijuana, marijuana concentrates, or marijuana-infused products a licensee may have on its premises;
- (f) Licensee reporting requirements;
- (g) Conditions under which marijuana grown by licensed marijuana producers and other product types from licensed marijuana processors may be donated to marijuana research licensees; and
- (h) Additional requirements deemed necessary by the liquor and cannabis board.

(6) The production, processing, possession, delivery, donation, and sale of marijuana, including immature plants or clones and seeds, in accordance with this section, RCW 69.50.366(3), and the rules adopted to implement and enforce ((it)) this section and RCW 69.50.366(3), by a validly licensed marijuana researcher, shall not be a criminal or civil offense under Washington state law. Every marijuana research license must be issued in the name of the applicant, must specify the location at which the marijuana researcher intends to operate, which must be within the state of Washington, and the holder thereof may not allow any other person to use the license.

(7) The application fee for a marijuana research license is two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana research license is one thousand dollars. The applicant must pay the cost of the review process directly to the scientific reviewer as designated by the liquor and cannabis board.

(8) The scientific reviewer shall review any reports made by marijuana research licensees under liquor and cannabis board rule and provide the liquor and cannabis board with its

determination on whether the research project continues to meet research qualifications under this section.

(9) For the purposes of this section, "scientific reviewer" means an organization that convenes or contracts with persons who have the training and experience in research practice and research methodology to determine whether a project meets the criteria for a marijuana research license under this section and to review any reports submitted by marijuana research licensees under liquor and cannabis board rule. "Scientific reviewers" include, but are not limited to, educational institutions, research institutions, peer review bodies, or such other organizations that are focused on science or research in its day-to-day activities.

Sec. 4. RCW 66.08.100 and 2012 c 117 s 269 are each amended to read as follows:

No court of the state of Washington other than the superior court of Thurston county shall have jurisdiction over any action or proceeding against the board or any member thereof for anything done or omitted to be done in or arising out of the performance of his or her or their duties under this title. Neither the board nor any member or members thereof shall be personally liable in any action at law for damages sustained by any person because of any acts performed or done or omitted to be done by the board or any employee of the board in the performance of his or her duties and in the administration of this title or chapter 69.50 or 69.51A RCW.

Sec. 5. RCW 69.50.101 and 2015 2nd sp.s. c 4 s 901 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(d) "Commission" means the pharmacy quality assurance commission.

(e) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(f)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(g) "Deliver" or "delivery((,))" means the actual or constructive transfer from

one person to another of a substance, whether or not there is an agency relationship.

(h) "Department" means the department of health.

(i) "Designated provider" has the meaning provided in RCW 69.51A.010.

(j) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(k) "Dispenser" means a practitioner who dispenses.

(l) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(m) "Distributor" means a person who distributes.

(n) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(o) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(p) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(q) "Immature plant or clone" means a plant or clone that has no flowers, is

less than twelve inches in height, and is less than twelve inches in diameter.

(r) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

((r)) (s) "Isomer" means an optical isomer, but in subsection ((dd)) (ee) (5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b) (4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a) (35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

((s)) (t) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

((t)) (u) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

((u)) (v) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

((v)) (w) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

((w)) (x) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent.

((x)) (y) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

((y)) (z) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

((z)) (aa) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

((aa)) (bb) "Marijuana researcher" means a person licensed by the state

liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

((bb)) (cc) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

((cc)) (dd) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection ((v)) (w) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

((dd)) (ee) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

((ee)) (ff) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

((ff)) (gg) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

((gg)) (hh) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((hh)) (ii) "Plant" has the meaning provided in RCW 69.51A.010.

((ii)) (jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

((jj)) (kk) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter,

licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

((kk)) (ll) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

((ll)) (mm) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

((mm)) (nn) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

((nn)) (oo) "Recognition card" has the meaning provided in RCW 69.51A.010.

((oo)) (pp) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

((pp)) (qq) "Secretary" means the secretary of health or the secretary's designee.

((qq)) (rr) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

((rr)) (ss) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant Cannabis, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant Cannabis regardless of moisture content.

((ss)) (tt) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

((tt)) (uu) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

Sec. 6. RCW 69.50.366 and 2015 c 207 s 8 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the state liquor ((control)) and cannabis board to implement and enforce this chapter ((3, Laws of 2013)), do not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the state liquor ((control)) and cannabis board under RCW 69.50.345(3);

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under this chapter ((3, Laws of 2013)); ((and))

(3) Delivery, distribution, and sale of immature plants or clones and marijuana seeds to a licensed marijuana researcher, and to receive or purchase immature plants or clones and seeds from a licensed marijuana researcher; and

(4) Delivery, distribution, and sale of marijuana or useable marijuana to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

Sec. 7. RCW 69.50.382 and 2015 2nd sp.s. c 4 s 501 are each amended to read as follows:

(1) A licensed marijuana producer, marijuana processor, marijuana researcher, or marijuana retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under RCW 69.50.385, to physically transport or deliver, as authorized under this chapter, marijuana, useable marijuana, marijuana concentrates, immature plants or clones, marijuana seeds, and marijuana-infused products between licensed marijuana businesses located within the state.

(2) An employee of a common carrier engaged in marijuana-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to RCW 69.50.385, the state liquor and cannabis board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the state liquor and cannabis board under RCW 69.50.385.

(3) A common carrier licensed under RCW 69.50.385 may, for the purpose of transporting and delivering marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused

products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized under, and in accordance with, this section and RCW 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

Sec. 8. RCW 69.51A.250 and 2016 c 170 s 2 are each amended to read as follows:

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf. All plants grown in the cooperative must be ((purchased or cloned)) from an immature plant or clone purchased from a licensed marijuana producer as defined in RCW 69.50.101. Cooperatives may also purchase marijuana seeds from a licensed marijuana producer.

(2) Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process marijuana. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable marijuana or marijuana-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a marijuana retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or

secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW 69.50.331(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location does not comply with the requirements set forth in subsection (3) of this section.

(5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable marijuana that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or

donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating under this section.

(7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

(8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all marijuana grown in a cooperative.

(9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.

NEW SECTION. Sec. 9. A new section is added to chapter 69.51A RCW to read as follows:

Qualifying medical marijuana patients and designated providers who have been issued an authorization form, as defined in RCW 69.51A.010, or who hold a recognition card, may purchase immature plants or clones, or marijuana seeds, from a licensed marijuana producer as defined in RCW 69.50.101.

Sec. 10. RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended to read as follows:

Except as otherwise provided in this chapter, industrial hemp is an agricultural product that may be grown, produced, possessed, processed, and

exchanged in the state solely and exclusively as part of an industrial hemp research program supervised by the department. Processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited, unless authorized by the department under section 11 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 15.120 RCW to read as follows:

(1) The department may allow a person holding an industrial hemp license authorizing the licensee to grow, produce, possess, or process industrial hemp to sell or transfer industrial hemp to a marijuana processor licensed under chapter 69.50 RCW and the rules adopted by the state liquor and cannabis board, for use by the marijuana processor.

(2) A licensed marijuana processor is not required to obtain an industrial hemp license from the department in order to possess or process industrial hemp for the purposes authorized under this section.

(3) A licensed marijuana processor may use any part of industrial hemp obtained in accordance with this section. A licensee's use of industrial hemp must comply with the requirements of chapter 69.50 RCW, the rules adopted by the state liquor and cannabis board, and the rules adopted by the department of health for marijuana products.

(4) The department may adopt rules, in consultation with the state liquor and cannabis board, to implement this section.

NEW SECTION. Sec. 12. The legislature finds that protecting the state's children, youth, and young adults under the legal age to purchase and consume marijuana, by establishing limited restrictions on the advertising of marijuana and marijuana products, is necessary to assist the state's efforts to discourage and prevent underage consumption and the potential risks associated with underage consumption. The legislature finds that these restrictions assist the state in maintaining a strong and effective regulatory and enforcement system as specified by the federal government. The legislature finds this act leaves ample opportunities for licensed marijuana businesses to market their products to

those who are of legal age to purchase them, without infringing on the free speech rights of business owners. Finally, the legislature finds that the state has a substantial and compelling interest in enacting this act aimed at protecting Washington's children, youth, and young adults.

Sec. 13. RCW 69.50.357 and 2016 c 171 s 1 are each amended to read as follows:

(1) Retail outlets may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age

of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) ((Licensed marijuana retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name. Each sign must be no larger than one thousand six hundred square inches, be permanently affixed to a building or other structure, and be posted not less than one thousand feet from any elementary school, secondary school, or playground.

(5)) Except for the purposes of disposal as authorized by the state liquor and cannabis board, no licensed marijuana retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

((6)) (5) The state liquor and cannabis board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana account created under RCW 69.50.530.

Sec. 14. RCW 69.50.369 and 2015 2nd sp.s. c 4 s 204 are each amended to read as follows:

(1) No licensed marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, marijuana concentrates, or a marijuana-infused product in any form or through any medium whatsoever((:

(a)) within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older((;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property)).

(2) A marijuana licensee may not utilize transit advertisements for the purpose of advertising its business or product line. "Transit advertisements" means advertising on or within private or public vehicles and all advertisements

placed at, on, or within any bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

(3) A marijuana licensee may not engage in advertising or other marketing practice that specifically targets persons residing outside of the state of Washington.

(4) A marijuana licensee may not:

(a) Take any action, directly or indirectly, to target youth in the advertising, promotion, or marketing of marijuana and marijuana products, or take any action the primary purpose of which is to initiate, maintain, or increase the incidence of youth use of marijuana or marijuana products;

(b) Use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or image likely to be appealing to youth, where such objects, images, or depictions indicate an intent to cause youth to become interested in the purchase or consumption of marijuana products; or

(c) Use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business. A "commercial mascot" means live human being, animal, or mechanical device used for attracting the attention of motorists and passersby so as to make them aware of marijuana products or the presence of a marijuana business. Commercial mascots include, but are not limited to, persons in costume, or wearing or holding a sign with a marijuana-related commercial message or image, where the intent is to draw attention to a marijuana business or its products.

(5) A marijuana licensee may not engage in outdoor advertising except as specifically provided for in this section.

(a) Outdoor advertising is prohibited:

(i) On signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located in an adult only facility; or

(ii) On any other advertisements placed outdoors or on the inside surface of a window facing outward that do not

meet the exclusionary provisions contained in (c) of this subsection.

(b)(i) Billboards that are visible from any street, road, highway, right-of-way, or public parking area are prohibited, except as provided in (b)(ii) of this subsection.

(ii) Licensed retail outlets may use a billboard or outdoor sign solely for the purpose of identifying the name of the business, the nature of the business, and providing the public with directional information to the licensed retail outlet. The content of the billboard or sign is strictly limited to the store's licensed name, its logo, the type of business, and directions to the licensed retail outlet. A billboard or sign may not contain any depictions of marijuana plants or products.

(c) Outdoor advertising does not include:

(i) An individual advertisement that does not occupy an area larger than two thousand four hundred square inches and that neither is placed in such proximity to any other such advertisement so as to create a single mosaic-type advertisement larger than two thousand four hundred square inches, nor functions solely as a segment of a larger advertising unit or series, and that is placed on the outside of any licensed retail establishment that sells marijuana products, outside but on the licensed premises of any such establishment, or on the inside surface of a window facing outward in any such establishment;

(ii) An advertisement inside a licensed retail establishment that sells marijuana products that is not placed on the inside surface of a window facing outward; or

(iii) An outdoor advertisement at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but in no event more than fourteen days before the event, and that does not advertise any marijuana product other than by using a brand name to identify the event.

(6) Merchandising within a retail outlet is not advertising for the purposes of this section.

((3)) (7) This section does not apply to a noncommercial message.

((4)) (8)(a) The state liquor and cannabis board must:

(i) Adopt rules implementing this section and specifically including provisions regulating the billboards and outdoor signs authorized under subsection (5)(b)(ii) of this section; and

(ii) Fine a licensee one thousand dollars for each violation of ((subsection (1) of)) this section until the state liquor and cannabis board adopts rules prescribing penalties for violations of this section. The rules must establish escalating penalties including fines and up to suspension or revocation of a marijuana license for subsequent violations.

(b) Fines collected under this subsection must be deposited into the dedicated marijuana account created under RCW 69.50.530.

(9) A city, town, or county may adopt rules of outdoor advertising by licensed marijuana retailers that are more restrictive than the advertising restrictions imposed under this chapter. Enforcement of restrictions to advertising by a city, town, or county is the responsibility of the city, town, or county.

Sec. 15. RCW 69.50.4013 and 2015 2nd sp.s. c 4 s 503 are each amended to read as follows:

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4) The delivery by a person twenty-one years of age or older to one or more persons twenty-one years of age or older, during a twenty-four hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(a) One-half ounce of useable marijuana;

(b) Eight ounces of marijuana-infused product in solid form;

(c) Thirty-six ounces of marijuana-infused product in liquid form; or

(d) Three and one-half grams of marijuana concentrates.

(5) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

((5)) (6) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

Sec. 16. RCW 69.07.010 and 1992 c 34 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Department" means the department of agriculture of the state of Washington;

(2) "Director" means the director of the department;

(3) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component;

(4) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media;

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state;

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing;

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any

manner, shall be considered to be food processing plants;

(8) "Person" means an individual, partnership, corporation, or association;

(9) "Board" means the state liquor and cannabis board;

(10) "Marijuana" has the meaning provided in RCW 69.50.101;

(11) "Marijuana-infused edible" means "marijuana-infused products," which is defined in RCW 69.50.101, but limited to products intended for oral consumption;

(12) "Marijuana-infused edible processing" means processing, packaging, or making marijuana-infused edibles using marijuana, marijuana extract, or marijuana concentrates as an ingredient. The term does not include preparation of marijuana as an ingredient including, but not limited to, processing marijuana extracts or marijuana concentrates;

(13) "Marijuana processor" has the meaning provided in RCW 69.50.101.

Sec. 17. RCW 69.07.020 and 1969 c 68 s 1 are each amended to read as follows:

(1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods.

(3) The department may adopt rules specific to marijuana-infused edibles. The rules must be written and interpreted to be consistent with rules adopted by the board and the department of health.

Sec. 18. RCW 19.02.110 and 2013 c 144 s 25 are each amended to read as follows:

(1) In addition to the licenses processed under the business licensing system prior to April 1, 1982, on July 1, 1982, use of the business licensing system is expanded as provided by this section.

(2) Applications for the following must be filed with the business licensing service and must be processed, and renewals must be issued, under the business licensing system:

(a) Nursery dealer's licenses required by chapter 15.13 RCW;

(b) Seed dealer's licenses required by chapter 15.49 RCW;

(c) Pesticide dealer's licenses required by chapter 15.58 RCW;

(d) Shopkeeper's licenses required by chapter 18.64 RCW;

(e) Egg dealer's licenses required by chapter 69.25 RCW; and

(f) Marijuana-infused edible endorsements required by chapter 69.07 RCW.

NEW SECTION. Sec. 19. A new section is added to chapter 69.07 RCW to read as follows:

(1) In addition to the requirements administered by the board under chapter 69.50 RCW, the department shall regulate marijuana-infused edible processing the same as other food processing under this chapter, except:

(a) The department shall not consider foods containing marijuana to be adulterated when produced in compliance with chapter 69.50 RCW and the rules adopted by the board;

(b) Initial issuance and renewal for an annual marijuana-infused edible endorsement in lieu of a food processing license under RCW 69.07.040 must be made through the business licensing system under chapter 19.02 RCW;

(c) Renewal of the endorsement must coincide with renewal of the endorsement holder's marijuana processor license;

(d) The department shall adopt a penalty schedule specific to marijuana processors, which may have values equivalent to the penalty schedule adopted by the board. The penalties are in addition to any penalties imposed under the penalty schedule adopted by the board; and

(e) The department shall notify the board of violations by marijuana processors under this chapter.

(2) A marijuana processor that processes, packages, or makes marijuana-infused edibles must obtain an annual marijuana-infused edible endorsement, as provided in this subsection (2).

(a) The marijuana processor must apply for issuance and renewal for the endorsement from the department through the business licensing system under chapter 19.02 RCW.

(b) The marijuana processor must have a valid marijuana processor license before submitting an application for initial endorsement. The application and initial endorsement fees total eight hundred ninety-five dollars. Applicants for endorsement otherwise must meet the same requirements as applicants for a food processing license under this chapter including, but not limited to, successful completion of inspection by the department.

(c) Annual renewal of the endorsement must coincide with renewal of the endorsement holder's marijuana processor license. The endorsement renewal fee is eight hundred ninety-five dollars.

(d) A marijuana processor must obtain a separate endorsement for each location at which the marijuana processor intends to process marijuana-infused edibles. Premises used for marijuana-infused edible processing may not be used for processing food that does not use marijuana as an ingredient, with the exception of edibles produced solely for tasting samples or internal product testing.

(3) The department may deny, suspend, or revoke a marijuana-infused edible endorsement on the same grounds as the department may deny, suspend, or revoke a food processing license under this chapter.

(4) Information about processors otherwise exempt from public inspection and copying under chapter 42.56 RCW is

also exempt from public inspection and copying if submitted to or used by the department.

NEW SECTION. Sec. 20. The department of agriculture, state liquor and cannabis board, and department of revenue shall take the necessary steps to ensure that section 19 of this act is implemented on its effective date.

NEW SECTION. Sec. 21. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the state liquor and cannabis board.

(2) "Licensee facilities" means any premises regulated by the board for producing, processing, or retailing marijuana or marijuana products.

(3) "Marijuana" has the meaning provided in RCW 69.50.101.

(4) "Marijuana processor" has the meaning provided in RCW 69.50.101.

(5) "Marijuana producer" has the meaning provided in RCW 69.50.101.

(6) "Marijuana products" has the meaning provided in RCW 69.50.101.

(7) "Marijuana retailer" has the meaning provided in RCW 69.50.101.

(8) "Person" means any natural person, firm, partnership, association, private or public corporation, governmental entity, or other business entity.

NEW SECTION. Sec. 22. (1) The department may adopt rules establishing:

(a) Standards for marijuana and marijuana products produced and processed in a manner consistent with, to the extent practicable, 7 C.F.R. Part 205;

(b) A self-sustaining program for certifying marijuana producers and marijuana processors as meeting the standards established under (a) of this subsection; and

(c) Other rules as necessary for administration of this chapter.

(2) To the extent practicable, the program must be consistent with the program established by the director under chapter 15.86 RCW.

(3) The rules must include a fee schedule that will provide for the recovery of the full cost of the program

including, but not limited to, application processing, inspections, sampling and testing, notifications, public awareness programs, and enforcement.

NEW SECTION. Sec. 23. (1) No marijuana or marijuana product may be labeled, sold, or represented as produced or processed under the standards established under this chapter unless produced or processed by a person certified by the department under the program established under this chapter.

(2) No person may represent, sell, or offer for sale any marijuana or marijuana products as produced or processed under standards adopted under this chapter if the person knows, or has reason to know, that the marijuana or marijuana product has not been produced or processed in conformance with the standards established under this chapter.

(3) No person may represent, sell, or offer for sale any marijuana or marijuana products as "organic products" as that term has meaning under chapter 15.86 RCW.

NEW SECTION. Sec. 24. (1) The department may inspect licensee facilities to verify compliance with this chapter and rules adopted under it.

(2) The department may deny, suspend, or revoke a certification provided for in this chapter if the department determines that an applicant or certified person has violated this chapter or rules adopted under it.

(3) The department may impose on and collect from any person who has violated this chapter or rules adopted under it a civil fine not exceeding the total of:

(a) The state's estimated costs of investigating and taking appropriate administrative and enforcement actions for the violation; and

(b) One thousand dollars.

(4) The board may take enforcement actions against a marijuana producer, marijuana processor, or marijuana retailer license issued by the board, including suspension or revocation of the license, when a licensee continues to violate this chapter after revocation of its certification or, if uncertified, receiving written notice from the department of certification requirements.

(5) The provisions of this chapter are cumulative and nonexclusive and do not affect any other remedy at law.

NEW SECTION. Sec. 25. Information about marijuana producers, marijuana processors, and marijuana retailers otherwise exempt from public inspection and copying under chapter 42.56 RCW is also exempt from public inspection and copying if submitted to or used by the department.

NEW SECTION. Sec. 26. All fees collected under this chapter must be deposited in an account within the agricultural local fund. The revenue from the fees must be used solely for carrying out the provisions of this chapter, and no appropriation is required for disbursement from the fund.

NEW SECTION. Sec. 27. This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after the effective date of this section.

NEW SECTION. Sec. 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.

NEW SECTION. Sec. 29. Sections 11 through 26 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 30. Section 19 of this act takes effect April 1, 2018."

Correct the title.

Signed by Representatives Sawyer, Chair; Kloba, Vice Chair; Condotta, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Barkis; Blake; Jenkin; Kirby; Ryu; Young Farrell, Member.

Referred to Committee on Appropriations.

March 23, 2017

SSB 5142

Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning educational interpreters. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Dolan, Vice Chair; Stonier, Vice Chair; Harris, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Bergquist; Calder; Hargrove; Johnson; Kilduff; Lovick; McCaslin;

Ortiz-Self; Senn; Slatter; Springer; Steele; Stokesbary and Volz.

patrol retirement system. Reported by Committee on Appropriations

Referred to Committee on Rules for second reading.

MAJORITY recommendation: Do pass as amended.

March 23, 2017  
SB 5162 Prime Sponsor, Senator McCoy: Creating the wastewater treatment plant operator certification account. Reported by Committee on Appropriations

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.43.120 and 2011 1st sp.s. c 5 s 6 are each amended to read as follows:

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Bergquist; Buys; Calder; Cody; Fitzgibbon; Haler; Hansen; Harris; Hudgins; Jinkins; Kagi; Lytton; Manweller; Nealey; Pettigrew; Pollet; Sawyer; Schmick; Senn; Springer; Stanford; Tharinger; Vick; Volz and Wilcox.

As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

MINORITY recommendation: Do not pass. Signed by Representatives Stokesbary, Assistant Ranking Minority Member; Condotta and Taylor.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

Referred to Committee on Rules for second reading.

March 23, 2017  
SSB 5241 Prime Sponsor, Committee on Early Learning & K-12 Education: Concerning the educational success of youth who are homeless or in foster care. Reported by Committee on Education

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Dolan, Vice Chair; Stonier, Vice Chair; Harris, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Bergquist; Calder; Hargrove; Johnson; Kilduff; Lovick; McCaslin; Ortiz-Self; Senn; Slatter; Springer; Steele; Stokesbary and Volz.

Referred to Committee on Rules for second reading.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

March 23, 2017  
SB 5252 Prime Sponsor, Senator Angel: Addressing the effectiveness of document recording fee surcharge funds that support homeless programs. Reported by Committee on Community Development, Housing & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Ryu, Chair; Macri, Vice Chair; McCabe, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Jenkin; Reeves and Sawyer.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:

Referred to Committee on Appropriations.

March 23, 2017  
SB 5274 Prime Sponsor, Senator Conway: Defining salary for purposes of the Washington state

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced

compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief; and

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001, and prior to July 1, 2017. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(b) "Salary," for members commissioned on or after July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or

any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(c) The addition of overtime earnings related to RCW 47.46.040 or any voluntary overtime earned on or after July 1, 2017, in this act is a benefit improvement that increases the member maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

(22) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender."

Correct the title.

Signed by Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist; Buys; Caldier; Cody; Fitzgibbon; Haler; Hansen; Harris; Hudgins; Jinkins; Kagi; Lytton; Manweller; Pettigrew; Pollet; Sawyer; Schmick; Senn; Springer; Stanford; Tharinger; Vick; Volz and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta; Nealey and Taylor.

Referred to Committee on Transportation.

March 23, 2017

2SSB 5300

Prime Sponsor, Committee on Ways & Means: Authorizing specified local governments to designate a portion of their territory as a creative district subject to certification by the Washington state arts commission. Reported by Committee on Community Development, Housing & Tribal Affairs

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) A creative district is a designated, geographical, mixed-use area of a community in which a high concentration of cultural facilities, creative businesses, or arts-related businesses serve as a collective anchor of public attraction;

(b) In certain cases, multiple vacant properties in close proximity may exist within a community that would be suitable for redevelopment as a creative district;

(c) Creative districts are a highly adaptable economic development tool that is able to take a community's unique conditions, assets, needs, and opportunities into account and thereby address the needs of large, small, rural, and urban areas;

(d) Creative districts may be home to both nonprofit and for-profit creative industries and organizations;

(e) The arts and culture transcend boundaries of race, age, gender, language, and social status; and

(f) Creative districts promote and improve communities in particular and the state more generally in many ways. Specifically, such districts:

(i) Attract artists and creative entrepreneurs to a community and thereby infuse the community with energy and innovation and enhance the economic and civic capital of the community;

(ii) Create a hub of economic activity that helps an area become an appealing place to live, visit, and conduct business, complements adjacent businesses, creates new economic opportunities and jobs in both the cultural sector and other local

industries, and attracts new businesses and assists in the recruitment of employees;

(iii) Establish marketable tourism assets that highlight the distinct identity of communities, attract in-state, out-of-state, and international visitors, and become especially attractive destinations for cultural, recreational, and business travelers;

(iv) Revitalize and beautify neighborhoods, cities, and larger regions, reverse urban decay, promote the preservation of historic buildings, and facilitate a healthy mixture of business and residential activity that contributes to reduced vacancy rates and enhanced property values;

(v) Provide a focal point for celebrating and strengthening a community's unique cultural identity, providing communities with opportunities to highlight existing cultural amenities as well as mechanisms to recruit and establish new artists, creative industries, and organizations;

(vi) Provide artists with a creative area in which they can live and work, with living spaces that enable them to work in artistic fields and find affordable housing close to their place of employment; and

(vii) Enhance property values. Successful creative districts combine improvements to public spaces such as parks, waterfronts, and pedestrian corridors, alongside property development. The redevelopment of abandoned properties and historic sites and recruiting businesses to occupy vacant spaces can also contribute to reduced vacancy rates and enhanced property values.

(2) It is the intent of the legislature that the state provide leadership, technical support, and the infrastructure to local communities desirous of creating their own creative districts by, among other things, certifying districts, offering available incentives to encourage business development, exploring new incentives that are directly related to creative enterprises, facilitating local access to state assistance, enhancing the visibility of creative districts, providing technical assistance and planning help, ensuring broad and equitable program benefits, and fostering a supportive climate for the

arts and culture, thereby contributing to the development of healthy communities across the state and improving the quality of life of the state's residents.

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

(1) "Commission" means the Washington state arts commission.

(2) "Coordinator" means the employee of the Washington state arts commission who is responsible for performing the specific tasks under section 5 of this act.

(3) "Creative district" means a land area designated by a local government in accordance with section 3 of this act that contains either a hub of cultural facilities, creative industries, or arts-related businesses, or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.

(4) "Local government" means a city, county, or town.

(5) "State-certified creative district" means a creative district whose application for certification has been approved by the commission.

NEW SECTION. Sec. 3. (1) A local government may designate a creative district within its territorial boundaries subject to certification as a state-certified creative district by the commission. Two or more local governments may jointly apply for certification of a creative district that extends across a common boundary.

(2) In order to receive certification as a state-certified creative district, a creative district must:

(a) Be a geographically contiguous area;

(b) Be distinguished by physical, artistic, or cultural resources that play a vital role in the quality and life of a community, including its economic and cultural development;

(c) Be the site of a concentration of artistic or cultural activity, a major arts or cultural institution or facility, arts and entertainment businesses, an area with arts and cultural activities, or artistic or cultural production;

(d) Be engaged in the promotional, preservation, and educational aspects of the arts and culture of the community and contribute to the public through interpretive, educational, or recreational uses; and

(e) Satisfy any additional criteria required by the commission that in its discretion will further the purposes of sections 2 through 5 of this act. Any additional eligibility criteria must be posted by the commission on its public web site.

(3) The commission may grant certification to a creative district that does not qualify for certification under subsection (2) of this section if the land area proposed for certification contains multiple vacant properties in close proximity that would be suitable, as determined by the commission, for redevelopment as a creative district.

NEW SECTION. Sec. 4. (1) The commission may create a process for review of applications submitted by local governments or federally recognized Indian tribes for certification of state-certified creative districts. The application must be submitted on a standard form developed and approved by the commission.

(2) After reviewing an application for certification, the commission must approve or reject the application or return it to the applicant with a request for changes or additional information. The commission may request that an applicant provide relevant information supporting an application. Rejected applicants may reapply at any time in coordination with program guidelines.

(3) Certification must be based upon the criteria specified in section 3 of this act.

(4) If the commission approves an application for certification, it must notify the applicant in writing and must specify the terms and conditions of the commission's approval, including the terms and conditions set forth in the application and as modified by written agreement between the applicant and the commission.

(5) Upon approval by the commission of an application for certification, a creative district becomes a state-certified creative district with all of the attendant benefits under sections 2 through 5 of this act.

(6) The commission may revoke a certification previously granted for failure by a local government to comply with the requirements of this section or an agreement executed pursuant to this section.

(7) In addition to any powers explicitly granted to the commission under sections 2 through 5 of this act, the commission is granted such additional powers as are necessary to carry out the purposes of sections 2 through 5 of this act. Where authorized by law, such powers may include offering incentives to state-certified creative districts to encourage business development, exploring new incentives that are directly related to creative enterprises, facilitating local access to state economic development assistance, enhancing the visibility of state-certified creative districts, providing state-certified creative districts with technical assistance and planning aid, ensuring broad and equitable program benefits, and fostering a supportive climate for the arts and culture within the state.

(8) The creation of a district under this section may not be used to prohibit any particular business or the development of residential real property within the boundaries of the district or to impose a burden on the operation or use of any particular business or parcel of residential real property located within the boundaries of the district.

(9) Total appropriations for this program may not exceed one hundred fifty-six thousand dollars in the 2017-2019 biennium and two hundred thirty-five thousand dollars in the 2019-2021 biennium.

NEW SECTION. Sec. 5. The commission may not dedicate additional staff to the administration of the program beyond the coordinator. The coordinator must:

(1) Review applications for certification and make a recommendation to the commission for action;

(2) Administer and promote the application process for the certification of creative districts;

(3) With the approval of the commission, develop standards and policies for the certification of state-certified creative districts. Any approved standards and policies must be

posted on the commission's public web site;

(4) Require periodic written reports from any state-certified creative district for the purpose of reviewing the activities of the district, including the compliance of the district with the policies and standards developed under this section and with the conditions of an approved application for certification;

(5) Identify available public and private resources, including any applicable economic development incentives and other tools, that support and enhance the development and maintenance of creative districts and, with the assistance of the commission, ensure that such programs and services are accessible to creative districts; and

(6) With the approval of the commission, develop such additional procedures as may be necessary to administer this section. Any approved procedures must be posted on the commission's public web site.

NEW SECTION. Sec. 6. Sections 2 through 5 of this act are each added to chapter 43.46 RCW.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2017, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Ryu, Chair; Macri, Vice Chair; McCabe, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Jenkin; Reeves and Sawyer.

Referred to Committee on Rules for second reading.

March 23, 2017  
SB 5359 Prime Sponsor, Senator Conway: Requiring annual reporting on the implementation of laws to streamline licensing processes for military service members and their spouses. Reported by Committee on Community Development, Housing & Tribal Affairs

MAJORITY recommendation: Do pass as amended.

On page 3, line 2, after "351, Laws of 2011." insert "By January 1, 2018, the department of labor and industries and the professional educator standards

board must each submit a report to the legislature, including an assessment on how its licensing, certification, and apprenticeship programs apply training and experience acquired by military members and their spouses outside of Washington, and recommendations about whether such programs should be included in the reporting schedule within this subsection."

Signed by Representatives Ryu, Chair; Macri, Vice Chair; McCabe, Ranking Minority Member; Barkis, Assistant Ranking Minority Member; Jenkin; Reeves and Sawyer.

Referred to Committee on Rules for second reading.

March 23, 2017  
SB 5442 Prime Sponsor, Senator Fortunato: Concerning expanding the permitted uses of surplus funds from boater education card fees to certain boating safety programs and activities. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist; Cody; Fitzgibbon; Hansen; Hudgins; Jinkins; Kagi; Lytton; Pettigrew; Pollet; Sawyer; Senn; Springer; Stanford; Tharinger and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys; Caldier; Condotta; Haler; Harris; Nealey; Schmick; Taylor; Vick and Volz.

MINORITY recommendation: Without recommendation. Signed by Representative Manweller.

Referred to Committee on Rules for second reading.

March 23, 2017  
SB 5736 Prime Sponsor, Senator Brown: Concerning the expansion of nutrition programs for older adults. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist; Buys; Caldier; Cody; Fitzgibbon; Hansen; Harris; Hudgins; Jinkins; Kagi; Lytton; Manweller; Nealey; Pettigrew; Pollet; Sawyer; Schmick; Senn; Springer; Stanford; Tharinger; Vick; Volz and Wilcox.

