

NINETY-FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, April 15, 2009

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Hatfield, Haugen, Kauffman, Regala and Stevens.

The Sergeant at Arms Color Guard consisting of Pages Tara Balakrishnan and Mitchell Mills, presented the Colors. Pastor Rebecca Shjerven of St. Mark's Lutheran Church by the Narrows of Tacoma offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

April 14, 2009
SGA 9165 ROGERS WEED, appointed on March 17, 2009, for the term ending at the governors pleasure, as Director of the Department of Community, Trade and Economic Development. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kastama, Chair; Shin, Vice Chair; Zarelli; Delvin; Eide; Kilmer and McCaslin.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator McDermott, the measure listed on the Standing Committee report was referred to the committee as designated.

MOTION

On motion of Senator McDermott, the Senate advanced to the third order of business.

**MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS**

April 14, 2009
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

TOM A. JOHNSON, appointed March 30, 2009, for the term ending March 26, 2013, as Member of the Higher Education Facilities Authority.

Sincerely,
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 14, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

CINDY WHALEY, appointed March 18, 2009, for the term ending December 31, 2014, as Member of the Parks and Recreation Commission.

Sincerely,
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

MOTION

On motion of Senator McDermott, the appointees listed on the Gubernatorial Appointment report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed the following bills:

- SUBSTITUTE SENATE BILL NO. 5001,
- SENATE BILL NO. 5028,
- SENATE BILL NO. 5071,
- SENATE BILL NO. 5580,
- SENATE BILL NO. 5642,
- SENATE BILL NO. 5804,
- SUBSTITUTE SENATE BILL NO. 5881,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5901,
- SENATE BILL NO. 5909,
- SENATE BILL NO. 5976,
- SENATE JOINT MEMORIAL NO. 8001,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed the following bills:

- ENGROSSED HOUSE BILL NO. 2194,

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6164 by Senator Regala

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AN ACT Relating to providing local flexibility with existing revenues during severe economic downturns; amending RCW 82.46.010, 82.14.340, 9.46.113, and 67.28.1815; reenacting and amending RCW 82.46.035; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6165 by Senators Ranker, Rockefeller, Tom and Jarrett

AN ACT Relating to allowing greater use of short boards for appeals before the shorelines hearings board; and amending RCW 90.58.185.

Referred to Committee on Ways & Means.

ESB 6166 by Senators Hargrove, Ranker, Rockefeller, Jacobsen and Morton

AN ACT Relating to the sale of timber from state trust lands; amending RCW 79.15.510, 79.15.520, and 79.15.060; adding a new section to chapter 79.15 RCW; creating new sections; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 6167 by Senators Kline, Regala and Hargrove

AN ACT Relating to crimes against property; amending RCW 4.24.230, 9A.48.070, 9A.48.080, 9A.48.090, 9A.56.030, 9A.56.040, 9A.56.050, 9A.56.060, 9A.56.096, 9A.56.150, 9A.56.160, 9A.56.170, and 9A.56.350; adding a new section to chapter 9.94A RCW; adding a new section to chapter 3.50 RCW; adding a new section to chapter 3.66 RCW; adding a new section to chapter 35.20 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Ways & Means.

SB 6168 by Senators Tom and Prentice

AN ACT Relating to reducing costs in state elementary and secondary education programs; and amending RCW 28A.415.380, 28A.320.190, 28A.415.340, 28A.300.515, 28A.630.035, 28A.300.130, 28A.245.060, 28A.625.020, 28A.300.520, and 28A.320.125.

Referred to Committee on Ways & Means.

SB 6169 by Senator Prentice

AN ACT Relating to enhancing tax collection tools for the department of revenue in order to promote fairness and administrative efficiency; amending RCW 82.32.145 and 82.32.235; creating new sections; and prescribing penalties.

Referred to Committee on Ways & Means.

SB 6170 by Senators Hobbs and Prentice

AN ACT Relating to environmental tax incentives; amending RCW 81.104.170, 82.14.050, 82.14.060, 82.04.263, 82.04.294, 82.08.9651, 82.12.9651, 82.16.110, 82.16.120, 82.16.130, 82.08.890, 82.12.890, and 82.08.020; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.04

RCW; creating new sections; repealing RCW 82.08.813 and 82.12.813; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6171 by Senator Prentice

AN ACT Relating to savings in programs under the supervision of the department of health; amending RCW 43.20.050, 43.20.240, 70.119A.020, 70.119A.050, 70.119A.060, 70.119A.130, 64.44.070, 70.54.220, 70.54.220, 70.104.030, 70.104.050, 70.104.055, 70.56.010, 70.56.010, 70.56.020, 70.56.030, 70.56.050, and 70.104.090; repealing RCW 70.104.070, 70.104.080, 43.70.695, and 70.56.040; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6172 by Senators Rockefeller and Ranker

AN ACT Relating to oil spill prevention and preparedness; amending RCW 90.56.005; adding a new section to chapter 90.71 RCW; repealing RCW 90.56.120 and 90.56.130; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6173 by Senator Prentice

AN ACT Relating to improving sales tax compliance; amending RCW 82.04.470, 82.08.050, 82.08.130, 82.14B.042, 82.14B.200, 82.32.087, 82.32.290, 82.32.291, 82.32.330, 82.72.040, and 82.72.070; reenacting and amending RCW 82.04.050; adding new sections to chapter 82.32 RCW; creating new sections; prescribing penalties; and providing an effective date.

Referred to Committee on Finance.

SJM 8016 by Senators Honeyford, Holmquist, Schoesler, Delvin, Becker, Carrell, Morton, McCaslin, Parlette, Stevens, Swecker, King, Zarelli and Hewitt

Regarding government spending policies.

Referred to Committee on Ways & Means.

ESHB 2075 by House Committee on Finance (originally sponsored by Representative Hunter)

AN ACT Relating to the excise taxation of certain products and services provided or furnished electronically; amending RCW 82.04.190, 82.08.010, 82.12.010, 82.12.020, 82.04.060, 82.04.070, 82.04.110, 82.04.120, 82.04.2907, 82.04.297, 82.04.363, 82.04.4282, 82.04.470, 82.04.480, 82.04.065, 82.08.02525, 82.08.0253, 82.08.02535, 82.08.02537, 82.08.0256, 82.08.02565, 82.08.0257, 82.08.0273, 82.08.805, 82.08.995, 82.12.0251, 82.12.02525, 82.12.0255, 82.12.0257, 82.12.0258, 82.12.0259, 82.12.0315, 82.12.02595, 82.12.0272, 82.12.0284, 82.12.0345, 82.12.0347, 82.12.805, 82.12.860, 82.12.995, 82.32.730, 82.08.195, 35.21.717, 48.14.080, 82.02.020, 82.04.44525, 82.08.040, 82.08.130, 82.12.035, 82.12.040, 82.14.465, 82.16.010, 82.32.020, and 82.32.023; reenacting and amending RCW 82.04.050; adding new sections to chapter 82.04 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12

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RCW; adding a new section to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; creating new sections; and repealing RCW 82.08.705 and 82.12.705.

Referred to Committee on Ways & Means.

HB 2328 by Representatives Linville and Ericks

AN ACT Relating to reducing the administrative cost of state government; amending 2009 c 5 ss 6, 7, 8, 9, and 10 (uncodified); adding a new section to 2009 c 5 (uncodified); adding a new chapter to Title 49 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator McDermott, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

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

MOTION

Senator Benton moved adoption of the following resolution:

SENATE RESOLUTION
8662

By Senator Benton

WHEREAS, Many Washington citizens have literally given the gift of life by donating organs, eyes, and tissues; and

WHEREAS, It is essential that all citizens are aware of the opportunity to save and enhance the lives of others through organ, eye, and tissue donation and transplantation; and

WHEREAS, There are more than one hundred thousand courageous Americans awaiting a lifesaving organ transplant, with eighteen individuals losing their lives every day because of the shortage of donations; and

WHEREAS, Every thirteen minutes a person is added to the national organ donation waiting list; and

WHEREAS, The organ, eye, and tissue donation from one individual can save or enhance the lives of over fifty people; and

WHEREAS, Families receive comfort through the grieving process with the knowledge that through organ, eye, and tissue donation another person's life has been saved or enhanced; and

WHEREAS, Organ donation offers the recipients a second chance at life, enabling them to be with their families and maintain a higher quality of life; and

WHEREAS, Through organ, eye, and tissue donation a donor and donor's family receives gratitude from the recipient's family and is honored by the enhancement of the recipient's life; and

WHEREAS, The example set by those who choose to donate reflects the character and compassion of these individuals, whose voluntary choice saves the lives of others;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize April as National Donate Life Month as declared by the Governor and honor those who have donated and celebrate the lives of the recipients.

Senator Benton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8662.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Director of Donate Life Today, Andrea Greg who was seated in the gallery.

MOTION

On motion of Senator McDermott, the Senate reverted to the sixth order of business.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator King moved that Gubernatorial Appointment No. 9160, Larry Sanchez, as a member of the Board of Trustees, Yakima Valley Community College District No. 16, be confirmed.

Senator King spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

MOTION

On motion of Senator Marr, Senators Brown, Fairley, Haugen, Kauffman and Regala were excused.

APPOINTMENT OF LARRY SANCHEZ

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9160, Larry Sanchez as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9160, Larry Sanchez as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 2; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Absent: Senators Hatfield and Stevens

Excused: Senators Brandland, Fairley, Haugen, Kauffman and Regala

Gubernatorial Appointment No. 9160, Larry Sanchez, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1373, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Dickerson, Kagi, Green, Cody, Darneille, Dunshee, Roberts, Goodman, Appleton, Kenney, Orwall, Hurst, Moeller, Takko, Chase, Rolfes, Carlyle, Simpson, Nelson, Conway and Ormsby)

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Concerning children's mental health services.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.09.521 and 2007 c 359 s 11 are each amended to read as follows:

(1) To the extent that funds are specifically appropriated for this purpose the department shall revise its medicaid healthy options managed care and fee-for-service program standards under medicaid, Title XIX of the federal social security act to improve access to mental health services for children who do not meet the regional support network access to care standards. Effective July 1, 2008, the program standards shall be revised to allow outpatient therapy services to be provided by licensed mental health professionals, as defined in RCW 71.34.020, or by a mental health professional regulated under Title 18 RCW who is under the direct supervision of a licensed mental health professional, and up to twenty outpatient therapy hours per calendar year, including family therapy visits integral to a child's treatment. This section shall be administered in a manner consistent with federal early periodic screening, diagnosis, and treatment requirements related to the receipt of medically necessary services when a child's need for such services is identified through developmental screening.

(2) ~~((This section expires July 1, 2010.))~~ The department and the children's mental health evidence-based practice institute established in RCW 71.24.061 shall collaborate to encourage and develop incentives for the use of prescribing practices and evidence-based and research-based treatment practices developed under RCW 74.09.490 by mental health professionals serving children under this section.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1373.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 74.09.521; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1373 as amended by the

Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1373 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1373 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Holmquist, Honeyford and Schoesler

Excused: Senators Brandland, Fairley, Haugen, Kauffman and Regala

SECOND SUBSTITUTE HOUSE BILL NO. 1373 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1664, by House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Conway, Hinkle and Ormsby)

Addressing the termination, cancellation, or nonrenewal of motorsports manufacturer and dealer franchise agreements.

The measure was read the second time.

MOTION

Senator Holmquist moved that the following committee amendment by the Committee on Labor, Commerce & Consumer Protection be adopted.

On page 2, after line 28, insert the following:

"NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "agreements;" strike the remainder of the title and insert "amending RCW 46.93.080; and declaring an emergency."

Senator Holmquist spoke in favor of adoption of the committee amendment.

Senator Honeyford spoke against adoption of the committee amendment.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 1664.

The motion by Senator Holmquist failed and the committee

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 amendment was not adopted by a rising vote.

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MOTION

On motion of Senator Holmquist, the rules were suspended, Engrossed Substitute House Bill No. 1664 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holmquist and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1664.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1664 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brandland, Fairley, Haugen, Hewitt, Kauffman and Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1664, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792, by House Committee on Human Services (originally sponsored by Representatives Dickerson, O'Brien, Hurst, Morrell, Orwall, Green, Dammeier, Klippert, Walsh, Kelley and Ormsby)

Establishing search and arrest authority provisions of offenders by department of corrections personnel.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.631 and 1984 c 209 s 11 are each amended to read as follows:

(1) If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court or a department of corrections hearing officer. If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a community corrections officer may require an offender (~~may be required~~) to submit to a search and seizure of the offender's personal, residence, automobile, or other personal property.

(2) For the safety and security of department staff, an offender may be required to submit to pat searches, or other limited security searches, by community corrections officers,

correctional officers, and other agency approved staff, without reasonable cause, when in or on department premises, grounds, or facilities, or while preparing to enter department premises, grounds, facilities, or vehicles. Pat searches of offenders shall be conducted only by staff who are the same gender as the offender, except in emergency situations.

(3) A community corrections officer may also arrest an offender for any crime committed in his or her presence. The facts and circumstances of the conduct of the offender shall be reported by the community corrections officer, with recommendations, to the court or department of corrections hearing officer.

If a community corrections officer arrests or causes the arrest of an offender under this section, the offender shall be confined and detained in the county jail of the county in which the offender was taken into custody, and the sheriff of that county shall receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the community corrections officer, and such offenders shall not be released from custody on bail or personal recognizance, except upon approval of the court or authorized department staff, pursuant to a written order."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1792.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "personnel;" strike the remainder of the title and insert "and amending RCW 9.94A.631."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1792 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1792 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1792 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

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Excused: Senators Brandland, Fairley, Haugen, Hewitt, Kauffman and Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1938, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Roberts, Kagi, Angel, Walsh, Dunshee, Pettigrew, Green, Goodman, Haler and Kenney)

Considering postadoption contact between siblings in adoption proceedings. Revised for 2nd Substitute: Concerning postadoption contact with siblings.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1938 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1938.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1938 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 1; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens and Swecker

Voting nay: Senator Zarelli

Absent: Senator Tom

Excused: Senators Fairley, Haugen, Hewitt and Kauffman

SECOND SUBSTITUTE HOUSE BILL NO. 1938, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1961, by House Committee on Ways & Means (originally sponsored by Representatives Roberts, Haler, Pettigrew, Kagi, Carlyle, Pedersen and Wood)

Implementing the federal fostering connections to success and increasing adoptions act of 2008.

The measure was read the second time.

MOTION

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On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 1961 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1961.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1961 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Honeyford and Roach

Excused: Senators Fairley, Haugen and Kauffman

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1961, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 9:52 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:07 a.m. by President Owen.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Seaquist, Appleton, Hunt, Armstrong, Chandler, Chase and Miloscia)

Concerning personnel practices regarding exempt employment.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that information technologies have substantially altered the roles and responsibilities of employees in many state agencies since the creation of the Washington management service. With the understanding that the current economic crisis dictates finding every possible efficiency, the legislature intends to review the state's senior management and exempt services and understands that possible refinements in the service are needed. A review, in consultation with the various stakeholders and in light of current

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best practices, is warranted.

Sec. 2. RCW 41.06.133 and 2002 c 354 s 204 are each amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

~~((1))~~ (a) The reduction, dismissal, suspension, or demotion of an employee;

~~((2))~~ (b) Training and career development;

~~((3))~~ (c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

~~((4))~~ (d) Transfers;

~~((5))~~ (e) Promotional preferences;

~~((6))~~ (f) Sick leaves and vacations;

~~((7))~~ (g) Hours of work;

~~((8))~~ (h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

~~((9))~~ (i) The number of names to be certified for vacancies;

~~((10))~~ (j) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

~~((11))~~ (k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

~~((12))~~ (l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

~~((13))~~ (m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is

entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

(4)(a) The director shall require that each state agency report annually the following data:

(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;

(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and

(iii) The cost of each bonus or incentive awarded.

(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the department of personnel's agency web site.

Sec. 3. RCW 41.06.170 and 2002 c 354 s 213 are each amended to read as follows:

(1) The director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The director shall require that the appointing authority give written notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the director, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action to the personnel appeals board through June 30, 2005, and to the Washington personnel resources board after June 30, 2005. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing. Decisions of the Washington personnel resources board on appeals filed after June 30, 2005, shall be final and not subject to further appeal.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action to the personnel appeals board through June 30, 2005, and to the Washington personnel resources board after June 30, 2005. If the position being exempted is vacant, the exclusive bargaining unit representative may act in lieu of an employee for the purposes of appeal.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position,

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may appeal the allocation or reallocation to the personnel appeals board through December 31, 2005, and to the Washington personnel resources board after December 31, 2005. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

(5) Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 2049.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "employment;" strike the remainder of the title and insert "amending RCW 41.06.133 and 41.06.170; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2049 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senators Brandland, McCaslin and Morton were excused.

MOTION

On motion of Senator Marr, Senators Brown, Prentice and Rockefeller were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2049 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2049 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Roach and Rockefeller

Excused: Senators Brandland, Kauffman, McCaslin and Morton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. The tax payers of the state are coming to Olympia today and will gather on the steps of the Capitol. Those that can't come here today will be holding their 'Tea Parties' throughout the state. This is not unlike the original tea party held in Boston. These people feel that they're a grass roots movement. They feel that their rights have been trampled on and they're being ignored and so I would personally like to invite all the members of the Senate to this rally out on the steps today at noon. Thank you Mr. President."

SECOND READING

HOUSE BILL NO. 1517, by Representatives Darneille, Green, Dickerson, Goodman, Ormsby, Roberts, Flannigan, Pedersen, Appleton, Upthegrove, Simpson, Hasegawa, Chase, Liias, Miloscia, Kagi, Hudgins, Hunt, Santos, Wood, Moeller, Williams, Kenney, Carlyle, Nelson and Quall

Changing requirements for the restoration of the right to vote for people convicted of felonies.

The measure was read the second time.

MOTION

Senator Carrell moved that the following striking amendment by Senators Carrell and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.08.520 and 2005 c 246 s 15 are each amended to read as follows:

(1) (Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a quarterly comparison of a list of known felons with the statewide voter registration list. If a person is found on a felon list and the statewide voter registration list)) For a felony conviction in a Washington state court, the right to vote is provisionally restored as long as the person is not under the authority of the department of corrections. For a felony conviction in a federal court or any state court other than a Washington state court, the right to vote is restored as long as the person is no longer incarcerated.

(2)(a) Once the right to vote has been provisionally restored, the sentencing court may revoke the provisional restoration of voting rights if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations.

(b) If the person has failed to make three payments in a twelve-month period and the county clerk or restitution recipient requests, the prosecutor shall seek revocation of the provisional restoration of voting rights from the court.

(c) To the extent practicable, the prosecutor and county clerk shall inform a restitution recipient of the recipient's right to ask for the revocation of the provisional restoration of voting rights.

(3) If the court revokes the provisional restoration of voting rights, the revocation shall remain in effect until, upon motion by the person whose provisional voting rights have been revoked, the person shows that he or she has made a good faith effort to pay as defined in RCW 10.82.090.

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(4) The county clerk shall enter into a database maintained by the administrator for the courts the names of all persons whose provisional voting rights have been revoked, and update the database for any person whose voting rights have subsequently been restored pursuant to subsection (6) of this section.

(5) At least twice a year, the secretary of state shall compare the list of registered voters to a list of felons who are not eligible to vote as provided in subsections (1) and (3) of this section. If a registered voter is not eligible to vote as provided in this section, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The ~~((canceling authority))~~ secretary of state or county auditor shall send to the person at his or her last known voter registration address and at the department of corrections, if the person is under the authority of the department, a notice of the proposed cancellation and an explanation of the requirements for provisionally and permanently restoring the right to vote ~~((once all terms of sentencing have been completed))~~ and reregistering. ~~((If the person does not respond within thirty days, the registration must be canceled.))~~ To the extent possible, the secretary of state shall time the comparison required by this subsection to allow notice and cancellation of voting rights for ineligible voters prior to a primary or general election.

~~((2))~~ (6) The right to vote may be permanently restored by ~~((for each felony conviction;))~~ one of the following for each felony conviction:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.

(7) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

Sec. 2. RCW 9.92.066 and 2003 c 66 s 2 are each amended to read as follows:

(1) Upon termination of any suspended sentence under RCW 9.92.060 or 9.95.210, such person may apply to the court for restoration of his or her civil rights not already restored by RCW 29A.08.520. Thereupon the court may in its discretion enter an order directing that such defendant shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he or she has been convicted.

(2)(a) Upon termination of a suspended sentence under RCW 9.92.060 or 9.95.210, the person may apply to the sentencing court for a vacation of the person's record of conviction under RCW 9.94A.640. The court may, in its discretion, clear the record of conviction if it finds the person has met the equivalent of the tests in RCW 9.94A.640(2) as those tests would be applied to a person convicted of a crime committed before July 1, 1984.

(b) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law

enforcement agency to any person, except other criminal justice enforcement agencies.

Sec. 3. RCW 9.94A.637 and 2007 c 171 s 1 are each amended to read as follows:

(1)(a) When an offender has completed all requirements of the sentence, including any and all legal financial obligations, and while under the custody and supervision of the department, the secretary or the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(b)(i) When an offender has reached the end of his or her supervision with the department and has completed all the requirements of the sentence except his or her legal financial obligations, the secretary's designee shall provide the county clerk with a notice that the offender has completed all nonfinancial requirements of the sentence.

(ii) When the department has provided the county clerk with notice that an offender has completed all the requirements of the sentence and the offender subsequently satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court, including the notice from the department, which shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(c) When an offender who is subject to requirements of the sentence in addition to the payment of legal financial obligations either is not subject to supervision by the department or does not complete the requirements while under supervision of the department, it is the offender's responsibility to provide the court with verification of the completion of the sentence conditions other than the payment of legal financial obligations. When the offender satisfies all legal financial obligations under the sentence, the county clerk shall notify the sentencing court that the legal financial obligations have been satisfied. When the court has received both notification from the clerk and adequate verification from the offender that the sentence requirements have been completed, the court shall discharge the offender and provide the offender with a certificate of discharge by issuing the certificate to the offender in person or by mailing the certificate to the offender's last known address.

(2) Every signed certificate and order of discharge shall be filed with the county clerk of the sentencing county. In addition, the court shall send to the department a copy of every signed certificate and order of discharge for offender sentences under the authority of the department. The county clerk shall enter into a database maintained by the administrator for the courts the names of all felons who have been issued certificates of discharge, the date of discharge, and the date of conviction and offense.

(3) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

(4) Except as provided in subsection (5) of this section, the discharge shall have the effect of restoring all civil rights ~~((lost by operation of law upon conviction))~~ not already restored by RCW 29A.08.520, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

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(5) Unless otherwise ordered by the sentencing court, a certificate of discharge shall not terminate the offender's obligation to comply with an order issued under chapter 10.99 RCW that excludes or prohibits the offender from having contact with a specified person or coming within a set distance of any specified location that was contained in the judgment and sentence. An offender who violates such an order after a certificate of discharge has been issued shall be subject to prosecution according to the chapter under which the order was originally issued.

(6) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

Sec. 4. RCW 9.96.050 and 2007 c 363 s 4 and 2007 c 171 s 2 are each reenacted and amended to read as follows:

(1)(a) When an offender on parole has performed all obligations of his or her release, including any and all legal financial obligations, for such time as shall satisfy the indeterminate sentence review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the offender.

(b) The board retains the jurisdiction to issue a certificate of discharge after the expiration of the offender's or parolee's maximum statutory sentence. If not earlier granted and any and all legal financial obligations have been paid, the board shall issue a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years.

(c) The discharge, regardless of when issued, shall have the effect of restoring all civil rights (~~lost by operation of law upon conviction~~) not already restored by RCW 29A.08.520, and the certification of discharge shall so state.

(d) This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.

(e) The board shall issue a certificate of discharge to the offender in person or by mail to the offender's last known address.

(2) The board shall send to the department of corrections a copy of every signed certificate of discharge for offender sentences under the authority of the department of corrections.

(3) The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall not in any manner be construed as affecting the powers of the governor to pardon any such person.

Sec. 5. RCW 10.64.140 and 2005 c 246 s 1 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall require the defendant to sign a statement acknowledging that:

~~((+))~~ (a) The defendant's right to vote has been lost due to the felony conviction;

~~((+))~~ (b) If the defendant is registered to vote, the voter registration will be canceled;

~~((+))~~ (c) The right to vote is provisionally restored as long as the defendant is not under the authority of the department of corrections;

(d) The defendant must reregister before voting;

(e) The provisional right to vote may be revoked if the defendant fails to comply with all the terms of his or her legal financial obligations or an agreement for the payment of legal financial obligations;

(f) The right to vote may be permanently restored by one of the following for each felony conviction:

~~((+))~~ (i) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

~~((+))~~ (ii) A court order issued by the sentencing court restoring the right, as provided in RCW 9.92.066;

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~~((+))~~ (iii) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

~~((+))~~ (iv) A certificate of restoration issued by the governor, as provided in RCW 9.96.020; and

~~((+))~~ (g) Voting before the right is restored is a class C felony under RCW 29A.84.660.

(2) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

Sec. 6. RCW 9.94A.885 and 1999 c 323 s 3 are each amended to read as follows:

(1) The clemency and pardons board shall receive petitions from individuals, organizations, and the department for review and commutation of sentences and pardoning of offenders in extraordinary cases, and shall make recommendations thereon to the governor.

(2) The board shall receive petitions from individuals or organizations for the restoration of civil rights lost by operation of state law as a result of convictions for federal offenses or out-of-state felonies. The board may issue certificates of restoration limited to ~~((the elective rights to vote and to engage))~~ engaging in political office. Any certifications granted by the board must be filed with the secretary of state to be effective. In all other cases, the board shall make recommendations to the governor.

(3) The board shall not recommend that the governor grant clemency under subsection (1) of this section until a public hearing has been held on the petition. The prosecuting attorney of the county where the conviction was obtained shall be notified at least thirty days prior to the scheduled hearing that a petition has been filed and the date and place at which the hearing on the petition will be held. The board may waive the thirty-day notice requirement in cases where it determines that waiver is necessary to permit timely action on the petition. A copy of the petition shall be sent to the prosecuting attorney. The prosecuting attorney shall make reasonable efforts to notify victims, survivors of victims, witnesses, and the law enforcement agency or agencies that conducted the investigation, of the date and place of the hearing. Information regarding victims, survivors of victims, or witnesses receiving this notice are confidential and shall not be available to the offender. The board shall consider written, oral, audio, or videotaped statements regarding the petition received, personally or by representation, from the individuals who receive notice pursuant to this section. This subsection is intended solely for the guidance of the board. Nothing in this section is intended or may be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any person.

NEW SECTION. Sec. 7. RCW 10.64.021 (Notice of conviction) and 1994 c 57 s 1 are each repealed."

Senators Carrell and Hargrove spoke in favor of adoption of the striking amendment.

Senator Kohl-Welles spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Carrell and Hargrove to House Bill No. 1517.

The motion by Senator Carrell carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "felonies;" strike the remainder of the title and insert "amending RCW 29A.08.520,

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9.92.066, 9.94A.637, 10.64.140, and 9.94A.885; reenacting and amending RCW 9.96.050; and repealing RCW 10.64.021."

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MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1517 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Brown, Hargrove, Franklin and Swecker spoke in favor of passage of the bill.

Senators Sheldon, Brandland and Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1517 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1517 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Jarrett, Kastama, Keiser, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Delvin, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Kilmer, Marr, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senator Kauffman

HOUSE BILL NO. 1517 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Franklin assumed the chair.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1420, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Maxwell, Williams, Chandler, Wood, Hinkle and Kelley)

Revising real estate seller disclosure requirements.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 64.06.005 and 2007 c 107 s 2 are each amended to read as follows:

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

- (1) "Improved residential real property" means:
 - (a) Real property consisting of, or improved by, one to four residential dwelling units;
 - (b) A residential condominium as defined in RCW

64.34.020(9), unless the sale is subject to the public offering statement requirement in the Washington condominium act, chapter 64.34 RCW;

(c) A residential timeshare, as defined in RCW 64.36.010(11), unless subject to written disclosure under the Washington timeshare act, chapter 64.36 RCW; or

(d) A mobile or manufactured home, as defined in RCW 43.22.335 or 46.04.302, that is personal property.

(2) "Residential real property" means both improved and unimproved residential real property.

(3) "Seller disclosure statement" means the form to be completed by the seller of residential real property as prescribed by this chapter.

(4) "Unimproved residential real property" means unimproved property ((zoned)) for which the maximum permitted development is one to four residential ((use that is not improved by residential dwelling units, a residential condominium, a residential timeshare, or a mobile or manufactured home)) units or structures under the county or city zoning ordinances or comprehensive plan applicable to that real estate and does not include property defined as "timber land" under RCW 84.34.020.

Sec. 2. RCW 64.06.015 and 2007 c 107 s 5 are each amended to read as follows:

(1) In a transaction for the sale of unimproved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT..... ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE

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AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . is/ . . . is not occupying the property.

I. SELLER'S DISCLOSURES:

*If you answer "Yes" to a question with an asterisk (*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE

- Yes No Don't know A. Do you have legal authority to sell the property? If no, please explain.
- Yes No Don't know *B. Is title to the property subject to any of the following?
 - (1) First right of refusal
 - (2) Option
 - (3) Lease or rental agreement
 - (4) Life estate?
- Yes No Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?
- Yes No Don't know *D. Is there a private road or easement agreement for access to the property?
- Yes No Don't know *E. Are there any rights-of-way, easements, or access limitations that ((~~may~~)) affect the Buyer's use of the property?
- Yes No Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?

- Yes No Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?
 - Yes No Don't know *H. Are there any pending or existing assessments against the property?
 - Yes No Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that ((~~would~~)) affect future construction or remodeling?
 - Yes No Don't know *J. Is there a boundary survey for the property?
 - Yes No Don't know *K. Are there any covenants, conditions, or restrictions ((~~which affect~~)) recorded against title to the property?
- 2. WATER**
- A. Household Water
- Yes No Don't know (1) Does the property have potable water supply?
 - (2) If yes, the source of water for the property is:
 - Private or publicly owned water system
 - Private well serving only the property
 - * Other water system
 - Yes No Don't know *If shared, are there any written agreements?
 - Yes No Don't know *(3) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?
 - Yes No Don't know *(4) Are there any ((~~known~~)) problems or repairs needed?
 - Yes No Don't know (5) Is there a connection or hook-up charge payable before the property can be connected to the water main?
 - Yes No Don't know (6) Have you obtained a certificate of water availability from the water purveyor serving the property? (If yes, please attach a copy.)
 - Yes No Don't know (7) Is there a water right permit, certificate, or claim associated with household water supply for the property? (If yes, please attach a copy.)

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Yes No Don't know (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?
 *(b) If yes, has all or any portion of the water right not been used for five or more successive years? ((If yes, please explain.))

Yes No Don't know (c) If no or don't know, is the water withdrawn from the water source less than 5,000 gallons a day?

Yes No Don't know *(8) Are there any defects in the operation of the water system (e.g., pipes, tank, pump, etc.)?
 B. Irrigation Water

Yes No Don't know (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim? (If yes, please attach a copy.)

Yes No Don't know (a) If yes, has all or any portion of the water right not been used for five or more successive years?

Yes No Don't know (b) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

Yes No Don't know *(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies irrigation water to the property:

Yes No Don't know C. Outdoor Sprinkler System
 (1) Is there an outdoor sprinkler system for the property?

Yes No Don't know *(2) If yes, are there any defects in the system?

Yes No Don't know *(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/SEPTIC SYSTEM

A. The property is served by:
 Public sewer system
 On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
 Other disposal system, please describe:

Yes No Don't know B. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

C. If the property is connected to an on-site sewage system:

Yes No Don't know *(1) Was a permit issued for its construction?

Yes No Don't know *(2) Was it approved by the local health department or district following its construction?

Yes No Don't know (3) Is the septic system a pressurized system?

Yes No Don't know (4) Is the septic system a gravity system?

Yes No Don't know *(5) Have there been any changes or repairs to the on-site sewage system?

Yes No Don't know (6) Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property?
 If no, please explain:

Yes No Don't know *(7) Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? ((If yes, please explain.))

4. ELECTRICAL/GAS

Yes No Don't know A. Is the property served by natural gas?

Yes No Don't know B. Is there a connection charge for gas?

Yes No Don't know C. Is the property served by electricity?

Yes No Don't know D. Is there a connection charge for electricity?

Yes No Don't know *E. Are there any electrical problems on the property? ((If yes, please explain:))

Yes No Don't know *E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

5. FLOODING

Yes No Don't know A. ((Are there any flooding, standing water, or drainage problems on the property or affecting access to the property? If yes, please explain:))

Yes No Don't know *F. Has the property been used for commercial or industrial purposes?

Yes No Don't know B.)) Is the property located in a government designated flood zone or floodplain?

Yes No Don't know *G. Is there any soil or groundwater contamination?

6. SOIL STABILITY

Yes No Don't know *A. Are there any settlement, earth movement, slides, or similar soil problems on the property? ((If yes, please explain:))

Yes No Don't know *H. Are there transmission poles(, transformers,) or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

Yes No Don't know B. Does any part of the property contain fill dirt, waste, or other fill material? If yes, please explain:))

Yes No Don't know *I. Has the property been used as a legal or illegal dumping site?

7. ENVIRONMENTAL

Yes No Don't know *A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

Yes No Don't know *J. Has the property been used as an illegal drug manufacturing site?

Yes No Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?

Yes No Don't know *K. Are there any radio towers ((in the area)) that ((may)) cause interference with cellular telephone reception?

Yes No Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

8. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

Yes No Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

Yes No Don't know A. Is there a homeowners' association? Name of association:

Yes No Don't know B. Are there regular periodic assessments: \$. . . per Month Year Other

Yes No Don't know *C. Are there any pending special assessments?

Yes No Don't know *D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

9. OTHER FACTS

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Yes No Don't know *A. Are there any disagreements, disputes, encroachments, or legal actions concerning the property? (If yes, please explain:)

Yes No Don't know *B. Does the property have any plants or wildlife that are designated as species ((or off)) of concern, or listed as threatened or endangered by the government?

Yes No Don't know *C. Is the property classified or designated as forest land or open space? (If so, specify:)

Yes No Don't know D. Do you have a forest management plan? If yes, attach.

Yes No Don't know *E. Have any development-related permit applications been submitted to any government agencies? (If so, specify:)

.....
If the answer to E is "yes," what is the status or outcome of those applications?
.....

10. FULL DISCLOSURE BY SELLERS

Yes No Don't know A. Other conditions or defects: *Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:
The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER

NOTICE TO BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. DATE BUYER BUYER

(2) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement

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between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

Sec. 3. RCW 64.06.020 and 2007 c 107 s 4 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT..... ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO

OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller is/ is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE

[] Yes [] No [] Don't know A. Do you have legal authority to sell the property? If no, please explain.

[] Yes [] No [] Don't know *B. Is title to the property subject to any of the following?
(1) First right of refusal
(2) Option
(3) Lease or rental agreement
(4) Life estate?

[] Yes [] No [] Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?

[] Yes [] No [] Don't know *D. Is there a private road or easement agreement for access to the property?

[] Yes [] No [] Don't know *E. Are there any rights-of-way, easements, or access limitations that may affect the Buyer's use of the property?

[] Yes [] No [] Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?

[] Yes [] No [] Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?

[] Yes [] No [] Don't know *H. Are there any pending or existing assessments against the property?

[] Yes [] No [] Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?

[] Yes [] No [] Don't know *J. Is there a boundary survey for the property?

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Yes No Don't know *K. Are there any covenants, conditions, or restrictions ((which affect)) recorded against the property?

(c) If no or don't know, is the water withdrawn from the water source less than five thousand gallons a day?

2. WATER

A. Household Water

(1) The source of water for the property is:

Yes No Don't know

Private or publicly owned water system

Private well serving only the subject property

* Other water system

*(7) Are there any defects in the operation of the water system (e.g. pipes, tank, pump, etc.)?
.....

B. Irrigation Water

(1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim?

Yes No Don't know

*If shared, are there any written agreements?

Yes No Don't know

Yes No Don't know

*(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?

Yes No Don't know

*(a) If yes, has all or any portion of the water right not been used for five or more successive years?

Yes No Don't know

*(3) Are there any ((known)) problems or repairs needed?

Yes No Don't know

Yes No Don't know

*(4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain.

Yes No Don't know

*(b) If so, is the certificate available? (If yes, please attach a copy.)

Yes No Don't know

*(5) Are there any water treatment systems for the property? If yes, are they Leased Owned

*(c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed? ((If so, explain.))
.....

Yes No Don't know

*(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?

Yes No Don't know

*(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property:
.....

Yes No Don't know

(a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

Yes No Don't know

C. Outdoor Sprinkler System

(1) Is there an outdoor sprinkler system for the property?

*(b) If yes, has all or any portion of the water right not been used for five or more successive years? ((If yes, please explain.))

Yes No Don't know

*(2) If yes, are there any defects in the system?((.....))

Yes No Don't know

Yes No Don't know

*(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/ON-SITE SEWAGE SYSTEM

A. The property is served by:
 Public sewer system,
 On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
 Other disposal system, please describe:

Yes No Don't know

B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.

Yes No Don't know

*C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

D. If the property is connected to an on-site sewage system:

Yes No Don't know

*(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?

(2) When was it last pumped(+) ?

Yes No Don't know

*(3) Are there any defects in the operation of the on-site sewage system?

Don't know

(4) When was it last inspected?

By whom:

Don't know

(5) For how many bedrooms was the on-site sewage system approved?

..... bedrooms

Yes No Don't know

E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain:

Yes No Don't know

*F. Have there been any changes or repairs to the on-site sewage system?

Yes No Don't know

G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.

Yes No Don't know

*H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? (If yes, please explain.)

NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES

4. STRUCTURAL

Yes No Don't know

*A. Has the roof leaked within the last five years?

Yes No Don't know

*B. Has the basement flooded or leaked?

Yes No Don't know

*C. Have there been any conversions, additions, or remodeling?

Yes No Don't know

*(1) If yes, were all building permits obtained?

Yes No Don't know

*(2) If yes, were all final inspections obtained?

Yes No Don't know

D. Do you know the age of the house? If yes, year of original construction:

Yes No Don't know

*E. Has there been any settling, slippage, or sliding of the property or its improvements?

Yes No Don't know

*F. Are there any defects with the following: (If yes, please check applicable items and explain.)

- Foundations
- Chimneys
- Doors
- Ceilings
- Pools
- Sidewalks
- Garage Floors
- Other
- Decks
- Interior Walls
- Windows
- Slab Floors
- Hot Tub
- Outbuildings
- Walkways
- Wood Stoves
- Exterior Walls
- Fire Alarm
- Patio
- Driveways
- Sauna
- Fireplaces
- Siding

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Yes No Don't know *G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed?

Yes No Don't know

If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health?

Yes No Don't know H. During your ownership, has the property had any wood destroying organism or pest infestation?

Yes No Don't know I. Is the attic insulated?

Yes No Don't know J. Is the basement insulated?

Yes No Don't know

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

5. SYSTEMS AND FIXTURES

*A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain.

A. Is there a Homeowners' Association? Name of Association:

Yes No Don't know Electrical system, including wiring, switches, outlets, and service

Yes No Don't know

B. Are there regular periodic assessments: \$. . . per Month Year Other

Yes No Don't know Plumbing system, including pipes, faucets, fixtures, and toilets

Yes No Don't know

*C. Are there any pending special assessments?

Yes No Don't know Hot water tank

Yes No Don't know Garbage disposal

Yes No Don't know Appliances

Yes No Don't know Sump pump

Yes No Don't know Heating and cooling systems

Yes No Don't know Security system

Owned Leased

Other

Yes No Don't know

*D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

Yes No Don't know Security system

Yes No Don't know Tanks (type):

Yes No Don't know Satellite dish

Other:

Yes No Don't know

7. ENVIRONMENTAL

*A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

*C. Are any of the following kinds of wood burning appliances present at the property?

Yes No Don't know (1) Woodstove?

Yes No Don't know (2) Fireplace insert?

Yes No Don't know (3) Pellet stove?

Yes No Don't know (4) Fireplace?

Yes No Don't know

*B. Does any part of the property contain fill dirt, waste, or other fill material?

Yes No Don't know

*C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

Yes No Don't know

D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

Yes No Don't know *E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

Yes No Don't know *F. Has the property been used for commercial or industrial purposes?

Yes No Don't know *G. Is there any soil or groundwater contamination?

Yes No Don't know *H. Are there transmission poles(;-transformers;-) or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

Yes No Don't know *I. Has the property been used as a legal or illegal dumping site?

Yes No Don't know *J. Has the property been used as an illegal drug manufacturing site?

Yes No Don't know *K. Are there any radio towers in the area that ((may)) cause interference with cellular telephone reception?

8. MANUFACTURED AND MOBILE HOMES

If the property includes a manufactured or mobile home,

Yes No Don't know *A. Did you make any alterations to the home? If yes, please describe the alterations:

Yes No Don't know *B. Did any previous owner make any alterations to the home? ((If yes, please describe the alterations:))

Yes No Don't know *C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

Yes No Don't know *Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof.

I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLERSELLER.....
NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.

B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.

C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.

D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.

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- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.
 DATE BUYER BUYER

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

Sec. 4. RCW 64.06.040 and 1996 c 301 s 4 are each amended to read as follows:

(1) If, after the date that a seller of residential real property completes a real property transfer disclosure statement, the seller (~~((becomes aware))~~ learns from a source other than the buyer or others acting on the buyer's behalf such as an inspector of additional information((?)) or an adverse change ((occurs))) which makes any of the disclosures made inaccurate, the seller shall amend the real property transfer disclosure statement, and deliver the amendment to the buyer. No amendment shall be required, however, if the seller takes whatever corrective action is necessary so that the accuracy of the disclosure is restored, or the adverse change is corrected, at least three business days prior to the closing date. Unless the corrective action is completed by the seller prior to the closing date, the buyer shall have the right to exercise one of the following two options: (a) Approving and accepting the amendment, or (b) rescinding the agreement of purchase and sale of the property within three business days after receiving the amended real property transfer disclosure statement. Acceptance or rescision shall be subject to the same procedures described in RCW 64.06.030. If the closing date provided in the purchase and sale agreement is scheduled to occur within the three-business-day rescission period provided for in this section, the closing date shall be extended until the expiration of the three-business-day rescission period. The

buyer shall have no right of rescission if the seller takes whatever action is necessary so that the accuracy of the disclosure is restored at least three business days prior to the closing date.

(2) In the event any act, occurrence, or agreement arising or becoming known after the closing of a residential real property transfer causes a real property transfer disclosure statement to be inaccurate in any way, the seller of such property shall have no obligation to amend the disclosure statement, and the buyer shall not have the right to rescind the transaction under this chapter.

(3) If the seller in a residential real property transfer fails or refuses to provide to the prospective buyer a real property transfer disclosure statement as required under this chapter, the prospective buyer's right of rescission under this section shall apply until the earlier of three business days after receipt of the real property transfer disclosure statement or the date the transfer has closed, unless the buyer has otherwise waived the right of rescission in writing. Closing is deemed to occur when the buyer has paid the purchase price, or down payment, and the conveyance document, including a deed or real estate contract, from the seller has been delivered and recorded. After closing, the seller's obligation to deliver the real property transfer disclosure statement and the buyer's rights and remedies under this chapter shall terminate."

On page 1, line 1 of the title, after "disclosure;" strike the remainder of the title and insert "and amending RCW 64.06.005, 64.06.015, 64.06.020, and 64.06.040."

The President Pro Tempore declared the question before the Senate to be the motion by Senator Fraser to not adopt the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to Substitute House Bill No. 1420.

The motion by Senator Fraser carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Fraser moved that the following striking amendment by Senator Fraser and others be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 64.06.005 and 2007 c 107 s 2 are each amended to read as follows:

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

- (1) "Improved residential real property" means:
 - (a) Real property consisting of, or improved by, one to four residential dwelling units;
 - (b) A residential condominium as defined in RCW 64.34.020(9), unless the sale is subject to the public offering statement requirement in the Washington condominium act, chapter 64.34 RCW;
 - (c) A residential timeshare, as defined in RCW 64.36.010(11), unless subject to written disclosure under the Washington timeshare act, chapter 64.36 RCW; or
 - (d) A mobile or manufactured home, as defined in RCW 43.22.335 or 46.04.302, that is personal property.
- (2) "Residential real property" means both improved and unimproved residential real property.
- (3) "Seller disclosure statement" means the form to be completed by the seller of residential real property as prescribed by this chapter.
- (4) "Unimproved residential real property" means property zoned for residential use that is not improved by residential dwelling units, a residential condominium, a residential timeshare, ~~((or))~~ a mobile or manufactured home, or a commercial building. It does not include property defined as "timber land" under RCW 84.34.020.

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Sec. 2. RCW 64.06.015 and 2007 c 107 s 5 are each amended to read as follows:

(1) In a transaction for the sale of unimproved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT.....

("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RECISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller is/ is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE
A. Do you have legal authority to sell the property? If no, please explain.
[] Yes [] No [] Don't know

*B. Is title to the property subject to any of the following?
(1) First right of refusal
(2) Option
(3) Lease or rental agreement
(4) Life estate?
[] Yes [] No [] Don't know

*C. Are there any encroachments, boundary agreements, or boundary disputes?
[] Yes [] No [] Don't know

*D. Is there a private road or easement agreement for access to the property?
[] Yes [] No [] Don't know

*E. Are there any rights-of-way, easements, or access limitations that ((may)) affect the Buyer's use of the property?
[] Yes [] No [] Don't know

*F. Are there any written agreements for joint maintenance of an easement or right-of-way?
[] Yes [] No [] Don't know

*G. Is there any study, survey project, or notice that would adversely affect the property?
[] Yes [] No [] Don't know

*H. Are there any pending or existing assessments against the property?
[] Yes [] No [] Don't know

*I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that ((would)) affect future construction or remodeling?
[] Yes [] No [] Don't know

*J. Is there a boundary survey for the property?
[] Yes [] No [] Don't know

*K. Are there any covenants, conditions, or restrictions ((which affect)) recorded against title to the property?
[] Yes [] No [] Don't know

2. WATER

A. Household Water
(1) Does the property have potable water supply?
(2) If yes, the source of water for the property is:

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- Private or publicly owned water system Yes No Don't know
- Private well serving only the property Yes No Don't know
- Other water system Yes No Don't know
- If shared, are there any written agreements? Yes No Don't know
- (3) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source? Yes No Don't know
- (4) Are there any (known) problems or repairs needed? Yes No Don't know
- (5) Is there a connection or hook-up charge payable before the property can be connected to the water main? Yes No Don't know
- (6) Have you obtained a certificate of water availability from the water purveyor serving the property? (If yes, please attach a copy.) Yes No Don't know
- (7) Is there a water right permit, certificate, or claim associated with household water supply for the property? (If yes, please attach a copy.) Yes No Don't know
- (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed? Yes No Don't know
- (b) If yes, has all or any portion of the water right not been used for five or more successive years? ((If yes, please explain.)) Yes No Don't know
- (c) If no or don't know, is the water withdrawn from the water source less than 5,000 gallons a day? Yes No Don't know
- (8) Are there any defects in the operation of the water system (e.g., pipes, tank, pump, etc.)? Yes No Don't know
- B. Irrigation Water Yes No Don't know
- (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim? (If yes, please attach a copy.) Yes No Don't know
- (a) If yes, has all or any portion of the water right not been used for five or more successive years? Yes No Don't know
- (b) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed? Yes No Don't know
- (2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies irrigation water to the property: Yes No Don't know
- C. Outdoor Sprinkler System Yes No Don't know
- (1) Is there an outdoor sprinkler system for the property? Yes No Don't know
- (2) If yes, are there any defects in the system? Yes No Don't know
- (3) If yes, is the sprinkler system connected to irrigation water? Yes No Don't know
- 3. SEWER/SEPTIC SYSTEM Yes No Don't know
- A. The property is served by: Public sewer system On-site sewage system (including pipes, tanks, drainfields, and all other component parts) Other disposal system, please describe: Yes No Don't know
- B. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service? Yes No Don't know
- C. If the property is connected to an on-site sewage system: Yes No Don't know
- (1) Was a permit issued for its construction? Yes No Don't know
- (2) Was it approved by the local health department or district following its construction? Yes No Don't know
- (3) Is the septic system a pressurized system? Yes No Don't know
- (4) Is the septic system a gravity system? Yes No Don't know
- (5) Have there been any changes or repairs to the on-site sewage system? Yes No Don't know
- (6) Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain: Yes No Don't know

Yes No Don't know *~~(7)~~ Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? ~~((If yes, please explain:))~~

Yes No Don't know

 Yes No Don't know

D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?
*E. Are there any substances, materials, or products in or on the property that may be environmental

Yes No Don't know **4. ELECTRICAL/GAS**
A. Is the property served by natural gas?

Yes No Don't know B. Is there a connection charge for gas?

Yes No Don't know C. Is the property served by electricity?

Yes No Don't know D. Is there a connection charge for electricity?

Yes No Don't know *E. Are there any electrical problems on the property? ~~((If yes, please explain:))~~

Yes No Don't know

 Yes No Don't know

concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?
*F. Has the property been used for commercial or industrial purposes?
*G. Is there any soil or groundwater contamination?

5. FLOODING

Yes No Don't know A. ~~((Are there any flooding, standing water, or drainage problems on the property or affecting access to the property? If yes, please explain:))~~

~~Yes No Don't know B.)) Is the property located in a government designated flood zone or floodplain?~~

Yes No Don't know

 Yes No Don't know

 Yes No Don't know

*H. Are there transmission poles(~~;~~ ~~transformers,~~) or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

6. SOIL STABILITY

Yes No Don't know *A. Are there any settlement, earth movement, slides, or similar soil problems on the property? ~~((If yes, please explain:))~~

~~Yes No Don't know B. Does any part of the property contain fill dirt, waste, or other fill material? If yes, please explain:))~~

Yes No Don't know

 Yes No Don't know

 Yes No Don't know

*I. Has the property been used as a legal or illegal dumping site?
*J. Has the property been used as an illegal drug manufacturing site?
*K. Are there any radio towers ~~((in the area))~~ that ~~((may))~~ cause interference with cellular telephone reception?

8. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

7. ENVIRONMENTAL

Yes No Don't know *A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

Yes No Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?

Yes No Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

Yes No Don't know

 Yes No Don't know

 Yes No Don't know

A. Is there a homeowners' association?
Name of association:

B. Are there regular periodic assessments:
\$. . . per Month Year
 Other

*C. Are there any pending special assessments?

*D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

9. OTHER FACTS

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- Yes No Don't know *A. Are there any disagreements, disputes, encroachments, or legal actions concerning the property? ~~((If yes, please explain:))~~
- Yes No Don't know *B. Does the property have any plants or wildlife that are designated as species ~~((or off))~~ of concern, or listed as threatened or endangered by the government?
- Yes No Don't know *C. Is the property classified or designated as forest land or open space? ~~((If so, specify:))~~
- Yes No Don't know D. Do you have a forest management plan? If yes, attach.
- Yes No Don't know *E. Have any development-related permit applications been submitted to any government agencies? ~~((If so, specify:))~~
If the answer to E is "yes," what is the status or outcome of those applications?

10. FULL DISCLOSURE BY SELLERS

- Yes No Don't know A. Other conditions or defects: *Are there any other existing material defects affecting the property that a prospective buyer should know about?
- B. Verification: The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER
NOTICE TO BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

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DATE BUYER BUYER

(2) If the disclosure statement is being completed for a property for which the maximum allowable development after full subdivision would be more than four residential units or structures, the disclosure statement is only required to contain and the seller is only required to complete the questions listed in item 7. Environmental.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller

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disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

Sec. 3. RCW 64.06.020 and 2007 c 107 s 4 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT..... ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

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Seller is/ is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE

[] Yes [] No [] Don't know A. Do you have legal authority to sell the property? If no, please explain.

[] Yes [] No [] Don't know *B. Is title to the property subject to any of the following?

- (1) First right of refusal
(2) Option
(3) Lease or rental agreement
(4) Life estate?

[] Yes [] No [] Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?

[] Yes [] No [] Don't know *D. Is there a private road or easement agreement for access to the property?

[] Yes [] No [] Don't know *E. Are there any rights-of-way, easements, or access limitations that may affect the Buyer's use of the property?

[] Yes [] No [] Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?

[] Yes [] No [] Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?

[] Yes [] No [] Don't know *H. Are there any pending or existing assessments against the property?

[] Yes [] No [] Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?

[] Yes [] No [] Don't know *J. Is there a boundary survey for the property?

[] Yes [] No [] Don't know *K. Are there any covenants, conditions, or restrictions ((which affect)) recorded against the property?

2. WATER

A. Household Water

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Yes No Don't know *B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

Yes No Don't know Security system

Yes No Don't know Tanks (type):

Yes No Don't know Satellite dish

Other:

Yes No Don't know *C. Are any of the following kinds of wood burning appliances present at the property?

Yes No Don't know (1) Woodstove?

Yes No Don't know (2) Fireplace insert?

Yes No Don't know (3) Pellet stove?

Yes No Don't know (4) Fireplace?

Yes No Don't know If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health?

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

Yes No Don't know A. Is there a Homeowners' Association? Name of Association:

Yes No Don't know B. Are there regular periodic assessments: \$. . . per Month Year Other

Yes No Don't know *C. Are there any pending special assessments?

Yes No Don't know *D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

7. ENVIRONMENTAL

Yes No Don't know *A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

Yes No Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

*C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

*E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

*F. Has the property been used for commercial or industrial purposes?

*G. Is there any soil or groundwater contamination?

*H. Are there transmission poles(;- transformers,;) or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

*I. Has the property been used as a legal or illegal dumping site?

*J. Has the property been used as an illegal drug manufacturing site?

*K. Are there any radio towers in the area that ((may)) cause interference with cellular telephone reception?

8. MANUFACTURED AND MOBILE HOMES

If the property includes a manufactured or mobile home,

*A. Did you make any alterations to the home? If yes, please describe the alterations:

*B. Did any previous owner make any alterations to the home? ((If yes, please describe the alterations:))

[] Yes [] No [] Don't know *C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS

[] Yes [] No [] Don't know A. Other conditions or defects: *Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification: The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER NOTICE TO THE BUYER INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.

E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE BUYER BUYER

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

Sec. 4. RCW 64.06.040 and 1996 c 301 s 4 are each amended to read as follows:

(1) If, after the date that a seller of residential real property completes a real property transfer disclosure statement, the seller ((becomes aware)) learns from a source other than the buyer or others acting on the buyer's behalf such as an inspector of additional information(=) or an adverse change ((occurs)) which makes any of the disclosures made inaccurate, the seller shall amend the real property transfer disclosure statement, and deliver the amendment to the buyer. No amendment shall be required, however, if the seller takes whatever corrective action is necessary so that the accuracy of the disclosure is restored, or the adverse change is corrected, at least three business days prior to the closing date. Unless the corrective action is completed by the seller prior to the closing date, the buyer shall have the right to exercise one of the following two options: (a) Approving and accepting the amendment, or (b) rescinding the agreement of purchase and sale of the property within three business days after receiving the amended real property transfer disclosure statement. Acceptance or rescission shall be subject to the same procedures described in RCW 64.06.030. If the closing date provided in the purchase and sale agreement is scheduled to occur within the three-business-day rescission period provided for in this section, the closing date shall be extended until the expiration of the three-business-day rescission period. The buyer shall have no right of rescission if the seller takes whatever action is necessary so that the accuracy of the disclosure is restored at least three business days prior to the closing date.

(2) In the event any act, occurrence, or agreement arising or becoming known after the closing of a residential real property

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transfer causes a real property transfer disclosure statement to be inaccurate in any way, the seller of such property shall have no obligation to amend the disclosure statement, and the buyer shall not have the right to rescind the transaction under this chapter.

(3) If the seller in a residential real property transfer fails or refuses to provide to the prospective buyer a real property transfer disclosure statement as required under this chapter, the prospective buyer's right of rescission under this section shall apply until the earlier of three business days after receipt of the real property transfer disclosure statement or the date the transfer has closed, unless the buyer has otherwise waived the right of rescission in writing. Closing is deemed to occur when the buyer has paid the purchase price, or down payment, and the conveyance document, including a deed or real estate contract, from the seller has been delivered and recorded. After closing, the seller's obligation to deliver the real property transfer disclosure statement and the buyer's rights and remedies under this chapter shall terminate.

NEW SECTION. Sec. 5. This act applies prospectively only and not retroactively. It applies only to sales of property that arise on or after the effective date of this section."

Senator Fraser spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Fraser and others to Substitute House Bill No. 1420.

The motion by Senator Fraser carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "disclosure;" strike the remainder of the title and insert "amending RCW 64.06.005, 64.06.015, 64.06.020, and 64.06.040; and creating a new section."

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 1420 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1420 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1420 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Kauffman

SUBSTITUTE HOUSE BILL NO. 1420 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:53 a.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m..

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fairley moved that Gubernatorial Appointment No. 9122, Gidget Terpstra, as a member of the Board of Trustees, Shoreline Community College District No. 7, be confirmed.

Senator Fairley spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Carrell, Hewitt, Holmquist, Parlette, Roach and Zarelli were excused.

MOTION

On motion of Senator Marr, Senators Haugen, Prentice and Tom were excused.

APPOINTMENT OF GIDGET TERPSTRA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9122, Gidget Terpstra as a member of the Board of Trustees, Shoreline Community College District No. 7.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9122, Gidget Terpstra as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Excused: Senators Benton, Carrell, Kauffman, Roach and Tom

Gubernatorial Appointment No. 9122, Gidget Terpstra, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Shoreline Community College District No. 7.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fairley moved that Gubernatorial Appointment No. 9113, Jerry Smith, as a member of the Board of Trustees, Shoreline Community College District No. 7, be confirmed.

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Senator Fairley spoke in favor of the motion.

APPOINTMENT OF JERRY SMITH

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9113, Jerry Smith as a member of the Board of Trustees, Shoreline Community College District No. 7.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9113, Jerry Smith as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Franklin

Excused: Senators Carrell, Kauffman and Tom

Gubernatorial Appointment No. 9113, Jerry Smith, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Shoreline Community College District No. 7.

MOTION

On motion of Senator Brandland, Senator Holmquist was excused.

MOTION

On motion of Senator Marr, Senator Franklin was excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Regala moved that Gubernatorial Appointment No. 9056, Arlene Joe, as a member of the Board of Trustees, Pierce Community College District No. 11, be confirmed.

Senator Regala spoke in favor of the motion.

APPOINTMENT OF ARLENE JOE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9056, Arlene Joe as a member of the Board of Trustees, Pierce Community College District No. 11.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9056, Arlene Joe as a member of the Board of Trustees, Pierce Community College District No. 11 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker,

Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Holmquist and Kauffman

Gubernatorial Appointment No. 9056, Arlene Joe, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Pierce Community College District No. 11.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128, by House Committee on Health Care & Wellness (originally sponsored by Representatives Seaquist and Simpson)

Concerning health care coverage for children.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that substantial progress has been made toward achieving the equally important goals set in 2007 that all children in Washington state have health care coverage by 2010 and that child health outcomes improve. The legislature also finds that continued steps are necessary to reach the goals that all children in Washington state shall have access to the health services they need to be healthy and ready to learn and that key measures of child health outcomes will show year by year improvement. The legislature further finds that reaching these goals is integral to the state's ability to weather the current economic crisis. The recent reauthorization of the federal children's health insurance program provides additional opportunities for the state to reach these goals. In view of these important objectives, the legislature intends that the apple health for kids program be managed actively across administrations in the department of social and health services, and across state and local agencies, with clear accountability for achieving the intended program outcomes. The legislature further intends that the department continue the implementation of the apple health for kids program with a commitment to fully utilizing the new program identity with appropriate materials.

Sec. 2. RCW 74.09.470 and 2007 c 5 s 2 are each amended to read as follows:

(1) Consistent with the goals established in RCW 74.09.402, through the apple health for kids program authorized in this section, the department shall provide affordable health care coverage to children under the age of nineteen who reside in Washington state and whose family income at the time of enrollment is not greater than two hundred fifty percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services, and effective January 1, 2009, and only to the extent that funds are specifically appropriated therefor, to children whose family income is not greater than three hundred percent of the federal poverty level. In administering the program, the department shall take such actions as may be necessary to ensure the receipt of federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any

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other federal funding sources that are now available or may become available in the future. The department and the caseload forecast council shall estimate the anticipated caseload and costs of the program established in this section.

(2) The department shall accept applications for enrollment for children's health care coverage; establish appropriate minimum-enrollment periods, as may be necessary; and determine eligibility based on current family income. The department shall make eligibility determinations within the time frames for establishing eligibility for children on medical assistance, as defined by RCW 74.09.510. The application and annual renewal processes shall be designed to minimize administrative barriers for applicants and enrolled clients, and to minimize gaps in eligibility for families who are eligible for coverage. If a change in family income results in a change in ~~((program eligibility))~~ the source of funding for coverage, the department shall transfer the family members to the appropriate ~~((programs))~~ source of funding and notify the family with respect to any change in premium obligation, without a break in eligibility. The department shall use the same eligibility redetermination and appeals procedures as those provided for children on medical assistance programs. The department shall modify its eligibility renewal procedures to lower the percentage of children failing to annually renew. ~~((The department shall report to the appropriate committees of the legislature on its progress in this regard by December 2007.))~~ The department shall manage its outreach, application, and renewal procedures with the goals of: (a) Achieving year by year improvements in enrollment, enrollment rates, renewals, and renewal rates; (b) maximizing the use of existing program databases to obtain information related to earned and unearned income for purposes of eligibility determination and renewals, including, but not limited to, the basic food program, the child care subsidy program, federal social security administration programs, and the employment security department wage database; (c) streamlining renewal processes to rely primarily upon data matches, online submissions, and telephone interviews; and (d) implementing any other eligibility determination and renewal processes to allow the state to receive an enhanced federal matching rate and additional federal outreach funding available through the federal children's health insurance program reauthorization act of 2009 by January 2010. The department shall advise the governor and the legislature regarding the status of these efforts by September 30, 2009. The information provided should include the status of the department's efforts, the anticipated impact of those efforts on enrollment, and the costs associated with that enrollment.

(3) To ensure continuity of care and ease of understanding for families and health care providers, and to maximize the efficiency of the program, the amount, scope, and duration of health care services provided to children under this section shall be the same as that provided to children under medical assistance, as defined in RCW 74.09.520.

(4) The primary mechanism for purchasing health care coverage under this section shall be through contracts with managed health care systems as defined in RCW 74.09.522 ~~((except when utilization patterns suggest that fee-for-service purchasing could produce equally effective and cost-efficient care))~~. However, the department shall make every effort within available resources to purchase health care coverage for uninsured children whose families have access to dependent coverage through an employer-sponsored health plan or another source when it is cost-effective for the state to do so, and the purchase is consistent with requirements of Title XIX and Title XXI of the federal social security act. To the extent allowable

under federal law, the department shall require families to enroll in available employer-sponsored coverage, as a condition of participating in the program established under ~~((chapter 5, Laws of 2007))~~ this section, when it is cost-effective for the state to do so. Families who enroll in available employer-sponsored coverage under ~~((chapter 5, Laws of 2007))~~ this section shall be accounted for separately in the annual report required by RCW 74.09.053.

(5)(a) To reflect appropriate parental responsibility, the department shall develop and implement a schedule of premiums for children's health care coverage due to the department from families with income greater than two hundred percent of the federal poverty level. For families with income greater than two hundred fifty percent of the federal poverty level, the premiums shall be established in consultation with the senate majority and minority leaders and the speaker and minority leader of the house of representatives. Premiums shall be set at a reasonable level that does not pose a barrier to enrollment. The amount of the premium shall be based upon family income and shall not exceed the premium limitations in Title XXI of the federal social security act. Premiums shall not be imposed on children in households at or below two hundred percent of the federal poverty level as articulated in RCW 74.09.055.

(b) Beginning no later than January 1, ~~((2009))~~ 2010, the department shall offer families whose income is greater than three hundred percent of the federal poverty level the opportunity to purchase health care coverage for their children through the programs administered under this section without ~~((a))~~ an explicit premium subsidy from the state. The design of the health benefit package offered to these children should provide a benefit package substantially similar to that offered in the apple health for kids program, and may differ with respect to cost-sharing, and other appropriate elements from that provided to children under subsection (3) of this section including, but not limited to, application of preexisting conditions, waiting periods, and other design changes needed to offer affordable coverage. The amount paid by the family shall be in an amount equal to the rate paid by the state to the managed health care system for coverage of the child, including any associated and administrative costs to the state of providing coverage for the child.

(6) The department shall undertake and continue a proactive, targeted outreach and education effort with the goal of enrolling children in health coverage and improving the health literacy of youth and parents. The department shall collaborate with the department of health, local public health jurisdictions, the office of ~~((the))~~ the superintendent of public instruction, the department of early learning, health educators, health care providers, health carriers, community-based organizations, and parents in the design and development of this effort. The outreach and education effort shall include the following components:

(a) Broad dissemination of information about the availability of coverage, including media campaigns;

(b) Assistance with completing applications, and community-based outreach efforts to help people apply for coverage. Community-based outreach efforts should be targeted to the populations least likely to be covered;

(c) Use of existing systems, such as enrollment information from the free and reduced-price lunch program, the department of early learning child care subsidy program, the department of health's women, infants, and children program, and the early childhood education and assistance program, to identify children who may be eligible but not enrolled in coverage;

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(d) Contracting with community-based organizations and government entities to support community-based outreach efforts to help families apply for coverage. These efforts should be targeted to the populations least likely to be covered. The department shall provide informational materials for use by government entities and community-based organizations in their outreach activities, and should identify any available federal matching funds to support these efforts;

(e) Development and dissemination of materials to engage and inform parents and families statewide on issues such as: The benefits of health insurance coverage; the appropriate use of health services, including primary care provided by health care practitioners licensed under chapters 18.71, 18.57, 18.36A, and 18.79 RCW, and emergency services; the value of a medical home, well-child services and immunization, and other preventive health services with linkages to department of health child profile efforts; identifying and managing chronic conditions such as asthma and diabetes; and the value of good nutrition and physical activity;

(f) An evaluation of the outreach and education efforts, based upon clear, cost-effective outcome measures that are included in contracts with entities that undertake components of the outreach and education effort;

(g) ~~((A feasibility study and))~~ An implementation plan to develop online application capability that is integrated with the department's automated client eligibility system, and to develop data linkages with the office of ~~((the))~~ the superintendent of public instruction for free and reduced-price lunch enrollment information and the department of early learning for child care subsidy program enrollment information. ~~((The department shall submit a feasibility study on the implementation of the requirements in this subsection to the governor and legislature by July 2008.))~~

(7) The department shall take action to increase the number of primary care physicians providing dental disease preventive services including oral health screenings, risk assessment, family education, the application of fluoride varnish, and referral to a dentist as needed.

(8) The department shall monitor the rates of substitution between private-sector health care coverage and the coverage provided under this section and shall report to appropriate committees of the legislature by December 2010.

NEW SECTION. Sec. 3. The department must identify, within existing resources, a staff position as the single point of contact and coordination for the apple health for kids program. The position must ensure planning and coordination of all aspects of the apple health for kids program across all the involved agencies and with the various stakeholders, facilitate the collection, reporting, and analysis of the outcome data required in section 4 of this act, and facilitate the collection and reporting of the data required in section 2 of this act. The position must strive to provide transparency and accountability for the apple health for kids program and provide public reporting of the data required in sections 2 and 4 of this act.

Sec. 4. RCW 74.09.480 and 2007 c 5 s 4 are each amended to read as follows:

(1) The department, in collaboration with the department of health, health carriers, local public health jurisdictions, children's health care providers including pediatricians, family practitioners, and pediatric subspecialists, community and migrant health centers, parents, and other purchasers, shall ((identify explicit performance measures that indicate that a child has an established and effective medical home, such as)) establish a concise set of explicit performance measures that can indicate whether children enrolled in the program are receiving

health care through an established and effective medical home, and whether the overall health of enrolled children is improving. Such indicators may include, but are not limited to:

(a) Childhood immunization rates;

(b) Well child care utilization rates, including the use of behavioral and oral health screening, and validated, structured developmental ~~((assessment tools that include behavioral and oral health screening))~~ screens using tools, that are consistent with nationally accepted pediatric guidelines and recommended administration schedule, once funding is specifically appropriated for this purpose;

(c) Care management for children with chronic illnesses;

(d) Emergency room utilization; ~~((and))~~

(e) Visual acuity and eye health;

(f) Preventive oral health service utilization; and

(g) Children's mental health status. In defining these measures the department shall be guided by the measures provided in RCW 71.36.025.

Performance measures and targets for each performance measure must be ~~((reported to the appropriate committees of the senate and house of representatives by December 1, 2007))~~ established and monitored each biennium, with a goal of achieving measurable, improved health outcomes for the children of Washington state each biennium.

(2) Beginning in calendar year 2009, targeted provider rate increases shall be linked to quality improvement measures established under this section. The department, in conjunction with those groups identified in subsection (1) of this section, shall develop parameters for determining criteria for increased payment, alternative payment methodologies, or other incentives for those practices and health plans that incorporate evidence-based practice and improve and achieve sustained improvement with respect to the measures ~~((in both fee for service and managed care)).~~

(3) The department shall provide ~~((an annual))~~ a report to the governor and the legislature related to provider performance on these measures, beginning in September 2010 for 2007 through 2009 and ((annually)) biennially thereafter. The department shall advise the legislature as to its progress towards developing this biennial reporting system by September 30, 2009.

NEW SECTION. Sec. 5. This act may be known and cited as the apple health for kids act."

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Marr to the committee striking amendment be adopted.

On page 3, line 26 after "care))" insert ", subject to conditions, limitations, and appropriations provided in the biennial appropriations act"

On page 4, line 33 after "child." insert "Any pooling of the program enrollees that results in state fiscal impact must be identified and brought to the legislature for consideration."

Senators Keiser and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Marr on page 3, line 26 to the committee striking amendment to Engrossed Substitute House Bill No. 2128.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

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MOTION

Senator Pflug moved that the following amendment by Senator Pflug to the committee striking amendment be adopted.

On page 4, line 3 of the amendment, after "(5)" strike "(a)" and insert "((a))"

On page 4, beginning on line 17 of the amendment, strike all of subsection (b) and insert "((b) Beginning January 1, 2009, the department shall offer families whose income is greater than three hundred percent of the federal poverty level the opportunity to purchase health care coverage for their children through the programs administered under this section without a premium subsidy from the state. The amount paid by the family shall be in an amount equal to the rate paid by the state to the managed health care system for coverage of the child, including any associated and administrative costs to the state of providing coverage for the child:))"

Senators Pflug, Schoesler, Becker, Parlette and Benton spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Keiser, Marr and Franklin spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 4, line 3 to the committee striking amendment Engrossed Substitute House Bill No. 2128.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Engrossed Substitute House Bill No. 2128.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "2010;" strike the remainder of the title and insert "amending RCW 74.09.470 and 74.09.480; and creating new sections."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2128 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Marr spoke in favor of passage of the bill.

Senators Zarelli and Pflug spoke against passage of the bill.

MOTION

On motion of Senator Brandland, Senator Holmquist was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2128 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2128 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Holmquist and Kauffman

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:31 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:27 p.m. by President Owen.

SECOND READING

HOUSE BILL NO. 1487, by Representatives Hunter, Anderson, Kessler, Wallace and Eddy

Regarding resident student classification.

The measure was read the second time.

MOTION

On motion of Senator Kilmer, the rules were suspended, House Bill No. 1487 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

MOTION

On motion of Senator Brandland, Senator Morton was excused.

MOTION

On motion of Senator Marr, Senators Brown, Kastama and Rockefeller were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1487.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1487 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 13; Absent, 1; Excused, 4.

Voting yea: Senators Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Keiser, Kilmer, Kline, Kohl-Welles, Marr,

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McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Schoesler, Sheldon, Shin, Tom and Zarelli

Voting nay: Senators Becker, Benton, Carrell, Hewitt, Holmquist, Honeyford, Kauffman, King, McCaslin, Parlette, Pflug, Stevens and Swecker

Absent: Senator Roach

Excused: Senators Brown, Kastama, Morton and Rockefeller

HOUSE BILL NO. 1487, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5001,
SENATE BILL NO. 5028,
SENATE BILL NO. 5071,
SENATE BILL NO. 5580,
SENATE BILL NO. 5642,
SENATE BILL NO. 5804,
SUBSTITUTE SENATE BILL NO. 5881,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5901,
SENATE BILL NO. 5909,
SENATE BILL NO. 5976,
SENATE JOINT MEMORIAL NO. 8001,

SECOND READING

HOUSE BILL NO. 1835, by Representatives Angel, Rolfes, Hinkle, Anderson, Haler, Short, Parker, Johnson, Bailey, Pedersen and Warnick

Concerning the use of respectful language in state statutes.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 44.04.280 and 2004 c 175 s 1 are each amended to read as follows:

(1) The legislature recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes towards people with disabilities. Many of the terms currently used diminish the humanity and natural condition of having a disability. Certain terms are demeaning and create an invisible barrier to inclusion as equal community members. The legislature finds it necessary to clarify preferred language for new and revised laws by requiring the use of terminology that puts the person before the disability.

(2)(a) The code reviser is directed to avoid all references to: Disabled, developmentally disabled, mentally disabled, mentally ill, mentally retarded, handicapped, cripple, and crippled, in any new statute, memorial, or resolution, and to change such references in any existing statute, memorial, or resolution as sections including these references are otherwise amended by law.

(b) The code reviser is directed to replace terms referenced in (a) of this subsection as appropriate with the following revised terminology: "Individuals with disabilities," "individuals with developmental disabilities," "individuals with mental illness," and "individuals with ((~~mental retardation~~))

intellectual disabilities."

(3) No statute, memorial, or resolution is invalid because it does not comply with this section.

NEW SECTION. Sec. 2. The code reviser is directed to submit a recommendation to the legislature, in the form of a bill, concerning replacement of the phrase "mental retardation" with the phrase "intellectual disability" and making other perfecting changes that may be required, throughout the Revised Code of Washington. The code reviser shall consult with legislative committee staff and other interested or affected parties. The recommendation must be submitted to the appropriate committees of the house of representatives and the senate by December 1, 2009."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to House Bill No. 1835.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "laws;" strike the remainder of the title and insert "amending RCW 44.04.280; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1835 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Roach was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1835 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1835 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kastama, Morton and Rockefeller

HOUSE BILL NO. 1835 as amended by the Senate, having received the constitutional majority, was declared passed. There

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being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1199, by Representatives Haigh, Kristiansen, Hunt and Armstrong

Regarding retainage of funds on public works projects.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, House Bill No. 1199 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1199.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1199 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kastama, Morton and Rockefeller

HOUSE BILL NO. 1199, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1167, by Representatives Hasegawa, Kenney, Simpson, Chase and Santos

Studying the linked deposit program.

The measure was read the second time.

MOTION

Senator Berkey moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be adopted.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that the linked deposit program is not accessible to many certified small businesses that the program was created to serve. The legislature further finds that the increased involvement of community development financial institutions in the linked deposit program could increase the participation of these small businesses. The legislature intends that the office of minority and women's business enterprises report to the legislature with an analysis of barriers faced by certified small businesses that are currently not able to participate in the linked deposit

program and make recommendations on how to overcome those barriers.

NEW SECTION. Sec. 2. By December 1, 2009, the office of minority and women's business enterprises shall, in consultation with the state treasurer and within existing resources, submit a report with recommendations to the legislature that addresses the following issues:

(1) The availability of sources of capital for certified borrowers, including the amounts and interest rates for that capital;

(2) The loans that are not being funded for certified borrowers under the current program and why those loans are not being funded;

(3) The availability of other sources of capital in the marketplace for those nonfunded loans of certified borrowers, including the amounts and interest rates for that capital;

(4) Whether there are other institutions that may be willing to make those loans that are currently not being made to certified borrowers under the program;

(5) Whether the program could be modified to encourage lenders to make those loans that are not currently being made to certified borrowers and whether the cost of those loans would be a barrier;

(6) A review of how other states seek to increase access to capital for borrowers that traditionally lack access to capital; and

(7) The role community development financial institutions could play in mitigating the cost of lending to certified borrowers who are not currently being served by the program.

Sec. 3. RCW 43.86A.060 and 2008 c 187 s 3 are each amended to read as follows:

(1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

(a) Having terms that do not exceed ten years;

(b) Where an individual loan does not exceed one million dollars;

(c)(i) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW; or

(ii) That are made to a veteran-owned business that has received state certification under RCW 43.60A.190;

(d) Where the interest rate on the loan to the minority or women's business enterprise or veteran-owned business does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term, except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository,

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except that the treasurer (~~shall~~) may lower the amount of the preference to ensure that the effective interest rate on the (~~time certificate of~~) deposit is not less than (~~two~~) zero percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW or that a veteran-owned business is no longer certified under RCW 43.60A.190, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise or the veteran-owned business, as applicable.

(5) The office of minority and women's business enterprises has the authority to adopt rules to:

(a) Ensure that when making a qualified loan under the linked deposit program, businesses that have never received a loan under the linked deposit program are given first priority;

(b) Limit the total principal loan amount that any one business receives in qualified loans under the linked deposit program over the lifetime of the businesses;

(c) Limit the total principal loan amount that an owner of one or more businesses receives in qualified loans under the linked deposit program during the owner's lifetime; and

(d) Limit the total amount of any one qualified loan made under the linked deposit program.

NEW SECTION. Sec. 4. Sections 1 and 2 of this act expire July 1, 2010."

Senator Berkey spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to House Bill No. 1199.

The motion by Senator Berkey carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.86A.060; creating new sections; and providing an expiration date."

On motion of Senator Berkey, the rules were suspended, Engrossed House Bill No. 1167 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1167 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1167 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker,

Tom and Zarelli

Excused: Senators Kastama, Morton and Rockefeller

ENGROSSED HOUSE BILL NO. 1167 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1959, by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Rodne, Williams and Armstrong)

Concerning land use and transportation planning for marine container ports.

The measure was read the second time.

MOTION

Senator Haugen moved that the following amendment by Senator Haugen be adopted.

On page 3, line 21, after "for" insert "consideration of"

Senator Haugen spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Fairley: "Would Senator Haugen yield to a question? Senator Haugen, have you passed this by the prime sponsor? I knew nothing about it. Is he ok with it?"

Senator Haugen: "Yes I have. I spoken to the Ports and they're fine with this."

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 3, line 21 to Engrossed Substitute House Bill No. 1959.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

MOTION

Senator Murray moved that the following amendment by Senator Murray be adopted.

On page 4, after line 24, insert the following:

"**Sec. 3.** RCW 36.70A.200 and 2002 c 68 s 2 are each amended to read as follows:

(1) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and in-patient facilities including substance abuse facilities, mental health facilities, group homes, and secure community transition facilities as defined in RCW 71.09.020.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community

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transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17.020, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70.146.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(2); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action."

Remember the remaining section consecutively.

Senator Murray spoke in favor of adoption of the amendment.

POINT OF INQUIRY

Senator Fairley: "Would Senator Murray yield to a question? Senator Murray, have you spoke with or do you know if the prime sponsor is ok with this amendment.?"

Senator Murray: "Yes, my understanding is all parties are agreed."

The President declared the question before the Senate to be the adoption of the amendment by Senator Murray on page 2, after line 24 to Engrossed Substitute House Bill No. 1959.

The motion by Senator Murray carried and the amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "ports;" insert "amending RCW 36.70A.200;"

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Substitute House Bill No. 1959 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1959 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1959 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Fraser

Absent: Senator Brown

Excused: Senators Kastama, Morton and Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1959 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1847, by House Committee on State Government & Tribal Affairs (originally sponsored by Representative Haigh)

Regarding bid limits.

The measure was read the second time.

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Substitute House Bill No. 1847 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1847.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1847 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Carrell, Holmquist, Honeyford, Parlette, Sheldon and Stevens

Excused: Senators Kastama, Morton and Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1847, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1300, by House Committee on Human Services (originally sponsored by Representatives Hurst, Dickerson, Pearson, Klippert, O'Brien and Smith)

Accessing mental health information.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.020 and 2008 c 156 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

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

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

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

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

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

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

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

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

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

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

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

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

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

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

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

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discharge or release; and

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

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

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

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

(25) "Likelihood of serious harm" means:

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

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

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

((25)) (27) "Mental health professional" means a psychiatrist, psychologist, 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;

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

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

((27)) (30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

((28)) (31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

((29)) (32) "Psychiatric advanced registered nurse

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

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

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

((32)) (35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

((33)) (36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

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

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

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

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

(41) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

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

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

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

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

(1) A mental health service provider shall release to the persons authorized under subsection (2) of this section, upon request:

(a) The fact, place, and date of an involuntary commitment, the fact and date of discharge or release, and the last known

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address of a person who has been committed under this chapter.

(b) Information related to mental health services, in the format determined under subsection (9) of this section, concerning a person who:

(i) Is currently committed to the custody or supervision of the department of corrections or the indeterminate sentence review board under chapter 9.94A or 9.95 RCW;

(ii) Has been convicted or found not guilty by reason of insanity of a serious violent offense; or

(iii) Was charged with a serious violent offense and such charges were dismissed under RCW 10.77.086.

Legal counsel may release such information to the persons authorized under subsection (2) of this section on behalf of the mental health service provider, provided that nothing in this subsection shall require the disclosure of attorney work product or attorney-client privileged information.

(2) The information subject to release under subsection (1) of this section shall be released to law enforcement officers, personnel of a county or city jail, designated mental health professionals, public health officers, therapeutic court personnel, personnel of the department of corrections, or personnel of the indeterminate sentence review board, when such information is requested during the course of business and for the purpose of carrying out the responsibilities of the requesting person's office. No mental health service provider or person employed by a mental health service provider, or its legal counsel, shall be liable for information released to or used under the provisions of this section or rules adopted under this section except under RCW 71.05.440.

(3) A person who requests information under subsection (1)(b) of this section must comply with the following restrictions:

(a) Information must be requested only for the purposes permitted by this subsection and for the purpose of carrying out the responsibilities of the requesting person's office. Appropriate purposes for requesting information under this section include:

(i) Completing presentence investigations or risk assessment reports;

(ii) Assessing an offender's risk to the community;

(iii) Planning for and provision of supervision of an offender, including decisions related to sanctions for violations of conditions of community supervision; and

(iv) Responding to an offender's failure to report for department of corrections supervision.

(b) Information shall not be requested under this section unless the requesting person has reasonable suspicion that the individual who is the subject of the information:

(i) Has engaged in an activity which constitutes a crime or a violation of community custody or parole; or

(ii) Is exhibiting signs of a deterioration in mental functioning which may make the individual appropriate for civil commitment under this chapter.

(c) Any information received under this section shall be held confidential and subject to the limitations on disclosure outlined in this chapter, except:

(i) Such information may be shared with other persons who have the right to request similar information under subsection (2) of this section, solely for the purpose of coordinating activities related to the individual who is the subject of the information in a manner consistent with the official responsibilities of the persons involved;

(ii) Such information may be shared with a prosecuting attorney acting in an advisory capacity for a person who receives information under this section. A prosecuting attorney under

this subsection shall be subject to the same restrictions and confidentiality limitations as the person who requested the information; and

(iii) As provided in RCW 72.09.585.

(4) A request for information related to mental health services under this section shall not require the consent of the subject of the records. Such request shall be provided in writing, except to the extent authorized in subsection (5) of this section. A written request may include requests made by e-mail or facsimile so long as the requesting person is clearly identified. The request must specify the information being requested.

(5) In the event of an emergency situation that poses a significant risk to the public or the offender, a mental health service provider, or its legal counsel, shall release information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found to the department of corrections or law enforcement upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health service provider and the address or information about the location or whereabouts of the offender.

(6) Disclosure under this section to state or local law enforcement authorities is mandatory for the purposes of the health insurance portability and accountability act.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(9) In collaboration with interested organizations, the department shall develop a standard form for requests for information related to mental health services made under this section and a standard format for information provided in response to such requests. Consistent with the goals of the health information privacy provisions of the federal health insurance portability and accountability act, in developing the standard form for responsive information, the department shall design the form in such a way that the information disclosed is limited to the minimum necessary to serve the purpose for which the information is requested.

Sec. 3. RCW 71.05.390 and 2007 c 375 s 15 are each amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, section 2 of this act, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

(a) Employed by the facility;

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- (b) Who has medical responsibility for the Patient's care;
- (c) Who is a designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

- (i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;
- (ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and
- (iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/....."

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

~~((b) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320 (3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:~~

~~—(i) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;~~

~~—(ii) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;~~

~~—(iii) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;~~

~~—(iv) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and~~

~~—(v)) (b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.~~

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only

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after giving notice to the committed person and the person's counsel.

(10)(a) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(11)(a) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(12) To the persons designated in RCW 71.05.425 and section 2 of this act for the purposes described in ~~((that))~~ those sections.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.56 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice

of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(18) When a patient would otherwise be subject to the provisions of ~~((RCW 71.05.390))~~ this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(19) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except as provided in section 2 of this act, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 4. RCW 71.05.445 and 2005 c 504 s 711 are each amended to read as follows:

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

~~—(a) "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.~~

~~—(b) "Mental health service provider" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.05.020, community mental health service delivery systems, or community mental health programs as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.~~

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~~(2)(a) Information related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW shall be released, upon request, by a mental health service provider to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community. The request shall be in writing and shall not require the consent of the subject of the records.~~

~~(b) If an offender subject to chapter 9.94A or 9.95 RCW has failed to report for department of corrections supervision or in the event of an emergent situation that poses a significant risk to the public or the offender, information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found shall be released by the mental health services provider to the department of corrections upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health services provider and the address or information about the location or whereabouts of the offender. Information released in response to a written request may include information identified by rule as provided in subsections (4) and (5) of this section. For purposes of this subsection a written request includes requests made by e-mail or facsimile so long as the requesting person at the department of corrections is clearly identified. The request must specify the information being requested. Disclosure of the information requested does not require the consent of the subject of the records unless the offender has received relief from disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.~~

~~(3)(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.~~

~~(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health service(s) provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the mental health service(s) provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the mental health service(s) provider is not required to notify the department of corrections that the mental health service(s) provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.~~

~~((4)) (2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports~~

~~identified in subsection (2) of this section).~~

~~((5)) (3) The department and the department of corrections, in consultation with regional support networks, mental health service providers as defined in ((subsection (1) of this section)) RCW 71.05.020, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:~~

~~(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and~~

~~(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.~~

~~((6)) (4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.~~

~~((7)) (5) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section except under RCW 71.05.440.~~

~~((8)) (6) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.~~

~~((9)) (7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.~~

~~((10)) (8) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.~~

Sec. 5. RCW 71.05.630 and 2007 c 191 s 1 are each amended to read as follows:

(1) Except as otherwise provided by law, all treatment records shall remain confidential and may be released only to the persons designated in this section, or to other persons designated in an informed written consent of the patient.

(2) Treatment records of a person may be released without informed written consent in the following circumstances:

(a) To a person, organization, or agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this subsection shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the person whose records are being released.

(b) To the department, the director of regional support networks, or a qualified staff member designated by the director only when necessary to be used for billing or collection purposes. The information shall remain confidential.

(c) For purposes of research as permitted in chapter 42.48 RCW.

(d) Pursuant to lawful order of a court.

(e) To qualified staff members of the department, to the director of regional support networks, to resource management

services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.

(f) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

(g) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department.

(h) To a licensed physician who has determined that the life or health of the person is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.

(i) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one treatment facility to another. The release of records under this subsection shall be limited to the treatment records required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record.

(j) ~~((Notwithstanding the provisions of RCW 71.05.390(7), to a correctional facility or a corrections officer who is responsible for the supervision of a person who is receiving inpatient or outpatient evaluation or treatment. Except as provided in RCW 71.05.445 and 71.34.345, release of records under this section is limited to:~~

~~—(i) An evaluation report provided pursuant to a written supervision plan.~~

~~—(ii) The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment provided as part of the supervision plan.~~

~~—(iii) When a person is returned from a treatment facility to a correctional facility, the information provided under (j)(iv) of this subsection.~~

~~—(iv) Any information necessary to establish or implement changes in the person's treatment plan or the level or kind of supervision as determined by resource management services. In cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only.~~

~~—(k)) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW.~~

((+)) (k) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of

the guardian's appointment. Any staff member who wishes to obtain additional information shall notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information.

~~((+))~~ (l) For purposes of coordinating health care, the department may release without informed written consent of the patient, information acquired for billing and collection purposes as described in (b) of this subsection to all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department shall not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client.

(3) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

NEW SECTION. Sec. 6. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

On page 1, line 4 of the title, after "felony;" strike the remainder of the title and insert "amending RCW 71.05.020, 71.05.390, 71.05.445, and 71.05.630; adding a new section to chapter 71.05 RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator Hargrove to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1300.

The motion by Senator Hargrove carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71.05.020 and 2008 c 156 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

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

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

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

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

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

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical,

mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

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

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

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

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

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

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

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

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

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

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

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

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

~~((23))~~ (24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

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

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

~~((24))~~ (26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

~~((25))~~ (27) "Mental health professional" means a psychiatrist, psychologist, 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;

~~((26))~~ (28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not

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limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

~~((29))~~ (29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

~~((27))~~ (30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

~~((28))~~ (31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

~~((29))~~ (32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

~~((30))~~ (33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

~~((31))~~ (34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

~~((32))~~ (35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

~~((33))~~ (36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

~~((34))~~ (37) "Release" means legal termination of the commitment under the provisions of this chapter;

~~((35))~~ (38) "Resource management services" has the meaning given in chapter 71.24 RCW;

~~((36))~~ (39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

~~((37))~~ (40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

~~((38))~~ (42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records

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include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

~~((39))~~ (44) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

(1) A mental health service provider shall release to the persons authorized under subsection (2) of this section, upon request:

(a) The fact, place, and date of an involuntary commitment, the fact and date of discharge or release, and the last known address of a person who has been committed under this chapter.

(b) Information related to mental health services, in the format determined under subsection (9) of this section, concerning a person who:

(i) Is currently committed to the custody or supervision of the department of corrections or the indeterminate sentence review board under chapter 9.94A or 9.95 RCW;

(ii) Has been convicted or found not guilty by reason of insanity of a serious violent offense; or

(iii) Was charged with a serious violent offense and such charges were dismissed under RCW 10.77.086.

Legal counsel may release such information to the persons authorized under subsection (2) of this section on behalf of the mental health service provider, provided that nothing in this subsection shall require the disclosure of attorney work product or attorney-client privileged information.

(2) The information subject to release under subsection (1) of this section shall be released to law enforcement officers, personnel of a county or city jail, designated mental health professionals, public health officers, therapeutic court personnel, personnel of the department of corrections, or personnel of the indeterminate sentence review board, when such information is requested during the course of business and for the purpose of carrying out the responsibilities of the requesting person's office. No mental health service provider or person employed by a mental health service provider, or its legal counsel, shall be liable for information released to or used under the provisions of this section or rules adopted under this section except under RCW 71.05.440.

(3) A person who requests information under subsection (1)(b) of this section must comply with the following restrictions:

(a) Information must be requested only for the purposes permitted by this subsection and for the purpose of carrying out the responsibilities of the requesting person's office. Appropriate purposes for requesting information under this section include:

(i) Completing presentence investigations or risk assessment reports;

(ii) Assessing a person's risk to the community;

(iii) Assessing a person's risk of harm to self or others when confined in a city or county jail;

(iv) Planning for and provision of supervision of an offender, including decisions related to sanctions for violations of conditions of community supervision; and

(v) Responding to an offender's failure to report for department of corrections supervision.

(b) Information shall not be requested under this section unless the requesting person has reasonable suspicion that the individual who is the subject of the information:

(i) Has engaged in activity indicating that a crime or a violation of community custody or parole has been committed

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or, based upon his or her current or recent past behavior, is likely to be committed in the near future; or

(ii) Is exhibiting signs of a deterioration in mental functioning which may make the individual appropriate for civil commitment under this chapter.

(c) Any information received under this section shall be held confidential and subject to the limitations on disclosure outlined in this chapter, except:

(i) Such information may be shared with other persons who have the right to request similar information under subsection (2) of this section, solely for the purpose of coordinating activities related to the individual who is the subject of the information in a manner consistent with the official responsibilities of the persons involved;

(ii) Such information may be shared with a prosecuting attorney acting in an advisory capacity for a person who receives information under this section. A prosecuting attorney under this subsection shall be subject to the same restrictions and confidentiality limitations as the person who requested the information; and

(iii) As provided in RCW 72.09.585.

(4) A request for information related to mental health services under this section shall not require the consent of the subject of the records. Such request shall be provided in writing, except to the extent authorized in subsection (5) of this section. A written request may include requests made by e-mail or facsimile so long as the requesting person is clearly identified. The request must specify the information being requested.

(5) In the event of an emergency situation that poses a significant risk to the public or the offender, a mental health service provider, or its legal counsel, shall release information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found to the department of corrections or law enforcement upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health service provider and the address or information about the location or whereabouts of the offender.

(6) Disclosure under this section to state or local law enforcement authorities is mandatory for the purposes of the health insurance portability and accountability act.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

(9) In collaboration with interested organizations, the department shall develop a standard form for requests for information related to mental health services made under this section and a standard format for information provided in response to such requests. Consistent with the goals of the health information privacy provisions of the federal health insurance portability and accountability act, in developing the standard form for responsive information, the department shall design the form in such a way that the information disclosed is limited to the minimum necessary to serve the purpose for which the information is requested.

Sec. 3. RCW 71.05.390 and 2007 c 375 s 15 are each amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, section 2 of this act, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or

involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

- (a) Employed by the facility;
- (b) Who has medical responsibility for the patient's care;
- (c) Who is a designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

- (i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;
- (ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and
- (iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the

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entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

~~((b) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board for persons who are the subject of the records and who are committed to the custody or supervision of the department of corrections or indeterminate sentence review board which information or records are necessary to carry out the responsibilities of their office. Except for dissemination of information released pursuant to RCW 71.05.425 and 4.24.550, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320 (3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, the extent of information that may be released is limited as follows:~~

~~(i) Only the fact, place, and date of involuntary commitment, the fact and date of discharge or release, and the last known address shall be disclosed upon request;~~

~~(ii) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board shall be obligated to keep such information confidential in accordance with this chapter;~~

~~(iii) Additional information shall be disclosed only after giving notice to said person and his or her counsel and upon a showing of clear, cogent, and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained. However, in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence;~~

~~(iv) Information and records shall be disclosed to the department of corrections pursuant to and in compliance with the provisions of RCW 71.05.445 for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community; and~~

~~(v) (b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.~~

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only

after giving notice to the committed person and the person's counsel.

(10)(a) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(11)(a) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(12) To the persons designated in RCW 71.05.425 and section 2 of this act for the purposes described in ~~((that)) those~~ sections.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.56 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived,

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that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(18) When a patient would otherwise be subject to the provisions of ~~((RCW 71.05.390))~~ this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(19) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except as provided in section 2 of this act, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 4. RCW 71.05.445 and 2005 c 504 s 711 are each amended to read as follows:

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

~~—(a) "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.~~

~~—(b) "Mental health service provider" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.05.020, community mental health service delivery systems, or community mental health programs as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.~~

~~—(2)(a) Information related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW shall be released, upon request, by a mental health service provider to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purposes of completing presentence investigations or risk assessment reports, supervision of an incarcerated offender or offender under supervision in the community, planning for and provision of supervision of an offender, or assessment of an offender's risk to the community. The request shall be in writing and shall not require the consent of the subject of the records.~~

~~—(b) If an offender subject to chapter 9.94A or 9.95 RCW has failed to report for department of corrections supervision or in the event of an emergent situation that poses a significant risk to the public or the offender, information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found shall be released by the mental health services provider to the department of corrections upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health services provider and the address or information about the location or whereabouts of the offender. Information released in response to a written request may include information identified by rule as provided in subsections (4) and (5) of this section. For purposes of this subsection a written request includes requests made by e-mail or facsimile so long as the requesting person at the department of corrections is clearly identified. The request must specify the information being requested. Disclosure of the information requested does not require the consent of the subject of the records unless the offender has received relief from disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.~~

~~—(3))(a) When a mental health service provider conducts its initial assessment for a person receiving court-ordered treatment, the service provider shall inquire and shall be told by the offender whether he or she is subject to supervision by the department of corrections.~~

~~(b) When a person receiving court-ordered treatment or treatment ordered by the department of corrections discloses to his or her mental health service provider that he or she is subject to supervision by the department of corrections, the mental health service(s) provider shall notify the department of corrections that he or she is treating the offender and shall notify the offender that his or her community corrections officer will be notified of the treatment, provided that if the offender has received relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the mental health service(s) provider with a copy of the order granting relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or 71.05.132, the mental health service(s) provider is not required to notify the department of corrections that the mental health service(s) provider is treating the offender. The notification may be written or oral and shall not require the consent of the offender. If an oral notification is made, it must be confirmed by a written notification. For purposes of this section, a written notification includes notification by e-mail or facsimile, so long as the notifying mental health service provider is clearly identified.~~

~~((4)) (2) The information to be released to the department of corrections shall include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (2) of this section).~~

~~((5)) (3) The department and the department of corrections, in consultation with regional support networks, mental health service providers as defined in ((subsection (1) of this section)) RCW 71.05.020, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules shall:~~

~~(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and~~

~~(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.~~

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~~((6))~~ (4) The information received by the department of corrections under this section shall remain confidential and subject to the limitations on disclosure outlined in chapter 71.05 RCW, except as provided in RCW 72.09.585.

~~((7))~~ (5) No mental health service provider or individual employed by a mental health service provider shall be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section except under RCW 71.05.440.

~~((8))~~ (6) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

~~((9))~~ (7) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under chapter 70.24 RCW.

~~((10))~~ (8) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service providers that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

Sec. 5. RCW 71.05.630 and 2007 c 191 s 1 are each amended to read as follows:

(1) Except as otherwise provided by law, all treatment records shall remain confidential and may be released only to the persons designated in this section, or to other persons designated in an informed written consent of the patient.

(2) Treatment records of a person may be released without informed written consent in the following circumstances:

(a) To a person, organization, or agency as necessary for management or financial audits, or program monitoring and evaluation. Information obtained under this subsection shall remain confidential and may not be used in a manner that discloses the name or other identifying information about the person whose records are being released.

(b) To the department, the director of regional support networks, or a qualified staff member designated by the director only when necessary to be used for billing or collection purposes. The information shall remain confidential.

(c) For purposes of research as permitted in chapter 42.48 RCW.

(d) Pursuant to lawful order of a court.

(e) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility. The information shall remain confidential.

(f) Within the treatment facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties.

(g) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department.

(h) To a licensed physician who has determined that the life or health of the person is in danger and that treatment without the information contained in the treatment records could be injurious to the patient's health. Disclosure shall be limited to the portions of the records necessary to meet the medical emergency.

(i) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon

transfer of the person from one treatment facility to another. The release of records under this subsection shall be limited to the treatment records required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record.

~~(j) (Notwithstanding the provisions of RCW 71.05.390(7), to a correctional facility or a corrections officer who is responsible for the supervision of a person who is receiving inpatient or outpatient evaluation or treatment. Except as provided in RCW 71.05.445 and 71.34.345, release of records under this section is limited to:~~

~~(i) An evaluation report provided pursuant to a written supervision plan.~~

~~(ii) The discharge summary, including a record or summary of all somatic treatments, at the termination of any treatment provided as part of the supervision plan.~~

~~(iii) When a person is returned from a treatment facility to a correctional facility, the information provided under (j)(iv) of this subsection.~~

~~(iv) Any information necessary to establish or implement changes in the person's treatment plan or the level or kind of supervision as determined by resource management services. In cases involving a person transferred back to a correctional facility, disclosure shall be made to clinical staff only.~~

~~(k) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW.~~

~~((1)) (k) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information shall notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information.~~

~~((m)) (l) For purposes of coordinating health care, the department may release without informed written consent of the patient, information acquired for billing and collection purposes as described in (b) of this subsection to all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department shall not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client.~~

(3) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

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NEW SECTION. Sec. 6. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Substitute House Bill No. 1300.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "felony;" strike the remainder of the title and insert "amending RCW 71.05.020, 71.05.390, 71.05.445, and 71.05.630; adding a new section to chapter 71.05 RCW; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1300 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1300 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1300 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Tom

Voting nay: Senator Zarelli

Excused: Senators Kastama, Morton and Rockefeller

SUBSTITUTE HOUSE BILL NO. 1300 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:12 p.m., on motion of Senator Eide, the Senate adjourned until 10:30 a.m. Thursday, April 16, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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