

ONE HUNDRED FIRST DAY

MORNING SESSION

Senate Chamber, Olympia
Wednesday, April 24, 2019

The Senate was called to order at 10:03 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all senators were present with the exception of Senator Takko.

The Sergeant at Arms Color Guard consisting of Pages Miss Carla Avenando and Mr. MacQuaid Hiller, presented the Colors.

Page Miss Faiza Abdi led the Senate in the Pledge of Allegiance.

The prayer was offered by Pastor Chris Rule, Assistant Pastor, Orting Community Baptist Church.

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

MOTION

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

MOTION

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

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

MOTION

At 10:09 a.m., on motion of Senator Kuderer, the Senate was declared to be at ease subject to the call of the President for the purposes of allowing standing committees to complete their hearings.

The Senate was called to order at 11:23 a.m. by President Habib.

MOTION

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

REPORTS OF STANDING COMMITTEES

April 23, 2019

SB 5692 Prime Sponsor, Senator Rolfes: Concerning recreational fishing and hunting licenses. Reported by Committee on Agriculture, Water, Natural Resources & Parks

MAJORITY recommendation: That Substitute Senate Bill No. 5692 be substituted therefor, and the substitute bill do pass. Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Honeyford and Rolfes.

MINORITY recommendation: Do not pass. Signed by Senators Warnick, Ranking Member; McCoy and Short.

Referred to Committee on Ways & Means.

April 23, 2019

SJM 8014 Prime Sponsor, Senator McCoy: Concerning logging and mining in the upper Skagit watershed. Reported by Committee on Agriculture, Water, Natural Resources & Parks

MAJORITY recommendation: Do pass. Signed by Senators Rolfes; McCoy; Salomon, Vice Chair Van De Wege, Chair.

MINORITY recommendation: Do not pass. Signed by Senators Short; Warnick, Ranking Member and Honeyford.

Referred to Committee on Rules for second reading.

MOTION

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

MOTION

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

MESSAGES FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

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

- SECOND SUBSTITUTE HOUSE BILL NO. 1394,
- ENGROSSED HOUSE BILL NO. 1465,
- ENGROSSED HOUSE BILL NO. 1564,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1582,
- ENGROSSED HOUSE BILL NO. 1638,
- ENGROSSED HOUSE BILL NO. 1706,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 23, 2019

MR. PRESIDENT:

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

- SECOND SUBSTITUTE HOUSE BILL NO. 1087,
- SUBSTITUTE HOUSE BILL NO. 1196,
- SECOND SUBSTITUTE HOUSE BILL NO. 1216,
- SUBSTITUTE HOUSE BILL NO. 1225,
- HOUSE BILL NO. 1462,
- SUBSTITUTE HOUSE BILL NO. 1476,
- HOUSE BILL NO. 1505,
- SUBSTITUTE HOUSE BILL NO. 1739,
- SUBSTITUTE HOUSE BILL NO. 1786,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1874,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 23, 2019

MR. PRESIDENT:

The House grants the request for a conference on SUBSTITUTE SENATE BILL NO. 5380. The Speaker has appointed the following members as Conferees: Representatives Cody, Macri, Schmick and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 23, 2019

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5258. The Speaker has appointed the following members as Conferees: Representatives Sells, Frame, Mosbrucker and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 23, 2019

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5526. The Speaker has appointed the following members as Conferees: Representatives Cody, Macri, Schmick and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6019 by Senator Palumbo

AN ACT Relating to generating electricity from a facility powered by the combustion of solid waste; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; creating a new section; and providing expiration dates.

Referred to Committee on Environment, Energy & Technology.

SB 6020 by Senators Mullet and Braun

AN ACT Relating to health care benefits for public school employees; amending RCW 41.05.740, 41.59.105, 41.05.011, 41.05.050, and 28A.400.350; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6021 by Senator Braun

AN ACT Relating to K-12 education funding; amending RCW 28A.320.330, 43.09.2856, and 28A.150.390; adding a new section to chapter 28A.150 RCW; and adding a new section to chapter 28A.300 RCW.

Referred to Committee on Early Learning & K-12 Education.

MOTION

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

MOTION

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

MOTION

On motion of Senator Liias, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

Senator Salomon moved adoption of the following resolution:

SENATE RESOLUTION

8644

By Senators Salomon, Frockt, Das, Keiser, Van De Wege, Wilson, C., Wagoner, King, Hasegawa, Lovelett, Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Dhingra, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, Hunt, Kuderer, Liias, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Schoesler, Sheldon, Short, Takko, Walsh, Warnick, Wellman, Wilson, L., and Zeiger

WHEREAS, Eric Stark has been a driver with King County Metro for seven years, with a reputation for professionalism among bus riders; and

WHEREAS, On March 27th, while operating on Metro Route 75 in North Seattle, Mr. Stark entered an area where a random act of gun violence was occurring; and

WHEREAS, Mr. Stark was wounded during the violence; and

WHEREAS, Mr. Stark, putting his own health aside, backed the Metro bus out of the danger area to assure the safety of his passengers; and

WHEREAS, Only after having ensured the safety of the riders, did Mr. Stark take action to address his injuries;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate, on behalf of the people of our state, express its gratitude and recognition for the selflessness, courage, and commitment to public safety shown by Mr. Stark in performing his duties as a King County Metro bus driver; and

BE IT FURTHER RESOLVED, That the Senate express its deepest condolences to the families and friends of Richard Hasson and Richard T. Lee, who tragically lost their lives during the violence; and

BE IT FURTHER RESOLVED, That the Senate wish a speedy and complete recovery to Deborah Juad, and hope that she can soon rejoin her second graders at Laurelhurst Elementary school; and

BE IT FURTHER RESOLVED, That the Senate express its gratitude to the law enforcement officers of the Seattle Police Department, whose quick intervention prevented further tragedy on that day; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Eric Stark.

Senators Salomon, Frockt and Saldaña spoke in favor of

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adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8644.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. & Mrs. Eric and Kimberly Stark and members of the Stark Family who were seated in the gallery. The Starks were accompanied by employees and representatives of the Metro Transit support team.

MOTION

On motion of Senator Liias and without objection, the names of all senators were added to Senate Resolution No. 8644, honoring Mr. Eric Stark.

MOTION

Senator Hobbs moved adoption of the following resolution:

SENATE RESOLUTION
8654

By Senators Hobbs, Hasegawa, Darneille, Randall, Takko, Honeyford, O'Ban, Padden, Palumbo, Wilson, C., Liias, Kuderer, Saldaña, King, Sheldon, and Lovelett

WHEREAS, More than 50 years ago, Eunice Kennedy Shriver saw how unjustly people with intellectual disabilities were treated and decided to take actions that led to the creation of the Special Olympics; and

WHEREAS, Special Olympics is the world's largest sports organization for children and adults with intellectual disabilities, providing year-round training and competitions to more than 5.3 million athletes and Unified Sports partners in 170 countries; and

WHEREAS, Special Olympics is the world's largest public health organization for people with intellectual disabilities and offers a wide range of free health exams and care; and

WHEREAS, Through the power of sports, children and adults with intellectual disabilities discover new strengths, abilities, confidence, and success on the playing field and in life; and

WHEREAS, Special Olympics Washington is a catalyst for inclusion and provides sports and health programs year-round for 18,000 children and adults with intellectual disabilities; and

WHEREAS, Lake Stevens exemplifies the community leadership needed to provide opportunity, resources, and respect for a segment of our community that has historically been ignored; and

WHEREAS, Through the support and fund-raising efforts of hometown hero Chris Pratt, local athletes like the Lake Stevens Eagles Softball Team can continue to train, thrive, and share their gifts and talents with the community; and

WHEREAS, On the 50th anniversary of the global movement, July 2018 marked the hosting of the every-four-years Special Olympics USA Games in Seattle, Washington, gathering 4,000 athletes and coaches from across the nation to compete in 14 Olympic-type sports; and

WHEREAS, The Lake Stevens Eagles competed in the Special Olympics USA Games in July 2018, representing Lake Stevens and Washington State in softball; and

WHEREAS, The Lake Stevens Eagles placed fourth in the nation in softball at the 2018 Special Olympics USA Games; and

WHEREAS, Since 2013, the team has taken home either a gold

or silver medal at the annual Special Olympics Washington State Softball Tournament;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the Lake Stevens Eagles; and BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Governor, Mayor of Lake Stevens, and Special Olympics Washington.

Senators Hobbs, Padden, Walsh, Randall and Brown spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8654.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Ms. Patty Studdard, Coach, Lake Stevens Eagles softball team; Mr. Dave Lenox, President & CEO, Special Olympics Washington; and the Lake Stevens Eagles Softball Team players, families and friends who were seated in the gallery and recognized by the senate.

MOTION

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

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5604 with the following amendment(s): 5604-S2 AMH ENGR H2597.E

Strike everything after the enacting clause and insert the following:

"ARTICLE 1
GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(29) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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

(31) "Respondent" means an individual for whom appointment

of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought.

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

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

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

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

(34) "Standby guardian" means a person appointed by the court under section 208 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The county in which the respondent resides;

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

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

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

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

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

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

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

(2) If proceedings for a guardianship, conservatorship, or protective arrangement under article 5 of this chapter for the same individual are commenced or pending in the same court, the proceedings may be consolidated.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The event occurs; and

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

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

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

or when a designated event occurs.

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

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

- (a) The event occurs; and
 - (b) The successor complies with section 108 of this act.
- (4) A successor guardian or successor conservator has the predecessor's powers unless otherwise provided by the court.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the court approves a request under subsection (1) of this section, the court shall give notice of the approval to the guardian or conservator, if one has been appointed, or the respondent if no guardian or conservator has been appointed.

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

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

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

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

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

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

- (a) Under eighteen years of age except as otherwise provided

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herein;

(b)(i) Except as provided otherwise in (b)(ii) of this subsection, convicted of a crime involving dishonesty, neglect, or use of physical force or other crime relevant to the functions the individual would assume as guardian;

(ii) A court may, upon consideration of the facts, find that a relative convicted of a crime is qualified to serve as a guardian or conservator;

(c) A nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

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

(e) A person whom the court finds unsuitable.

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

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

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

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

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

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

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

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

(5) Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or

reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

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

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

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

NEW SECTION. Sec. 121. COMPENSATION OF GUARDIAN OR CONSERVATOR. (1) Subject to court approval, a guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, clothing, and other appropriate expenses advanced for the benefit of the individual subject to guardianship. If a conservator, other than the guardian or a person affiliated with the guardian, is appointed for the individual, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without court approval.

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

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

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

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

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

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

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

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

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

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

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

(6) Where the person subject to guardianship or conservatorship receives guardianship, conservatorship, or other

protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

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

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

NEW SECTION. Sec. 123. PETITION AFTER APPOINTMENT FOR INSTRUCTION OR RATIFICATION.

(1) A guardian or conservator may petition the court for instruction concerning fiduciary responsibility or ratification of a particular act related to the guardianship or conservatorship.

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

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

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

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

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

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

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

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

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

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

conservatorship.

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

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

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

(a) Selecting the agent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The court shall hold a hearing to appoint a temporary substitute guardian pursuant to subsection (1)(a) or (b) of this section, or to appoint a temporary substitute conservator pursuant to subsection (2)(a) or (b) of this section. The court shall give notice under section 113 of this act to the adult subject to guardianship or conservatorship and to any other person the court determines should receive notice. The adult subject to guardianship or conservatorship shall have the right to attend the hearing and to be represented by counsel of the adult subject to guardianship or conservatorship's choosing.

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 128. GRIEVANCE AGAINST GUARDIAN OR CONSERVATOR. (1) An individual who is subject to guardianship or conservatorship, or person interested in

the welfare of an individual subject to guardianship or conservatorship, that reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a grievance in a record with the court.

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

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

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

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

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

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

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

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

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

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

(ii) Appointing a guardian ad litem;

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

(iv) Holding a hearing.

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

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

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

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

NEW SECTION. Sec. 130. EX PARTE COMMUNICATIONS—REMOVAL. A guardian ad litem or visitor shall not engage in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. Ex parte motions shall be heard in open court on the record. The record may be preserved in a manner deemed appropriate by the county where the matter is heard. The court, upon its own motion, or

upon the motion of a party, may consider the removal of any guardian ad litem or visitor who violates this section from any pending case or from any court-authorized registry, and if so removed may require forfeiture of any fees for professional services on the pending case.

NEW SECTION. Sec. 131. REGISTRY FOR GUARDIANS AD LITEM AND VISITORS. (1) The superior court of each county shall develop and maintain a registry of persons who are willing and qualified to serve as guardians ad litem and visitors in guardianship and conservatorship matters. The court shall choose as guardian ad litem or visitor a person whose name appears on the registry in a system of consistent rotation, except in extraordinary circumstances such as the need for particular expertise. The court shall develop procedures for periodic review of the persons on the registry and for probation, suspension, or removal of persons on the registry for failure to perform properly their duties as guardian ad litem or visitor. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

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

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

(i) Level of formal education;

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

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

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

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

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

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

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

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

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

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

(6) The superior court shall require utilization of the model program developed by the advisory group as described in subsection (5) of this section to assure that candidates applying for registration as a qualified guardian ad litem or visitor shall

have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem or visitor.

NEW SECTION. Sec. 132. GUARDIANSHIP/CONSERVATORSHIP SUMMARY. Every order appointing a guardian or conservator and every court order approving accounts or reports filed by a guardian or conservator must include a guardianship/conservatorship summary placed directly below the case caption or on a separate cover page in or substantially in the same form as set forth in section 606 of this act.

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

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

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

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

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

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

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

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such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

ARTICLE 2 GUARDIANSHIP OF MINOR

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

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

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

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

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

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

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

- (a) Serve notice of the date, time, and place of the hearing, together with a copy of the petition, personally on each of the following that is not the petitioner:
 - (i) The minor, if the minor will be twelve years of age or older at the time of the hearing;

- (ii) Each parent of the minor or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;

- (iii) Any adult with whom the minor resides;

- (iv) Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition; and

- (v) Any other person the court determines should receive personal service of notice; and

(b) Give notice under section 113 of this act of the date, time, and place of the hearing, together with a copy of the petition, to:

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

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

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

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

(4) If a petitioner is unable to serve notice under subsection (1)(a) of this section on a parent of a minor or alleges that the parent waived, in a record, the right to notice under this section, the court shall appoint a visitor who shall:

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

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

- (a) Requested by the minor and the minor is twelve years of age or older;
- (b) Recommended by a guardian ad litem; or
- (c) The court determines the minor needs representation.

(2) An attorney appointed under subsection (1) of this section shall:

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

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

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

(5) The court must appoint an attorney to represent a parent of

a minor who is the subject of a proceeding under section 202 of this act if:

- (a) The parent has appeared in the proceeding;
- (b) The parent is indigent; and
- (c) Any of the following is true:
 - (i) The parent objects to appointment of a guardian for the minor; or
 - (ii) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or
 - (iii) The court otherwise determines the parent needs representation.
- (6) The court must inquire about whether a parent is indigent to ensure that counsel is appointed in a timely manner. For purposes of this section, "indigent" has the same meaning as under RCW 10.101.010.
- (7) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 202 of this act, even if the parent is not indigent, if:
 - (a) The parent objects to appointment of a guardian for the minor;
 - (b) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or
 - (c) The court otherwise determines that the parent needs representation.
- (8) A party represented by an attorney in proceedings under this article has the right to introduce evidence, to be heard in his or her own behalf, and to examine witnesses. If a party to an action under this article is represented by counsel, no order may be provided to that party for signature without prior notice and provision of the order to counsel.

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

- (a) The minor lacks the ability or maturity to participate meaningfully in the hearing; or
 - (b) Attendance would be harmful to the minor.
- (2) Unless excused by the court for good cause, the person proposed to be appointed as guardian for a minor shall attend a hearing under section 203 of this act.
- (3) Each parent of a minor who is the subject of a hearing under section 203 of this act has the right to attend the hearing.
- (4) A person may request permission to participate in a hearing under section 203 of this act. The court may grant the request, with or without hearing, on determining that it is in the best interest of the minor who is the subject of the hearing. The court may impose appropriate conditions on the person's participation.

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

- (2) Before entering a final order, the court must:
- (a) Direct the department of children, youth, and families to release information as provided under RCW 13.50.100; and
 - (b) Require the petitioner to provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW for the petitioner and adult members of the petitioner's household.

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

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

- (a) The court shall appoint a person nominated as guardian by a parent of the minor in a will or other record unless the court finds the appointment is contrary to the best interest of the minor.
- (b) If multiple parents have nominated different persons to serve as guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.
- (c) If a guardian is not appointed under (a) or (b) of this subsection, the court shall appoint the person nominated by the minor if the minor is twelve years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

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

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

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

- (a) The guardian has delegated custody of the minor subject to guardianship;
- (b) The court has modified or limited the powers of the guardian; or
- (c) The court has removed the guardian.

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

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

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

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

- (3) The court may appoint a standby guardian for a minor on:
- (a) Petition by a parent of the minor or a person nominated

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under subsection (2) of this section; and

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

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

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

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

- (i) The minor, if the minor is twelve years of age or older, and the minor's attorney, if any;
- (ii) Each parent of the minor;
- (iii) The person nominated as standby guardian; and
- (iv) Any other person the court determines; and

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

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

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

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

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

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

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

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

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

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

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

- (a) The standby guardian assumes the duties and powers of the guardian;
- (b) The guardian delegates custody of the minor;

- (c) The court modifies or limits the powers of the guardian; or
- (d) The court removes the guardian.

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

(a) Each parent of the minor, unless the parent, in a record, waived the right to notice or cannot be located and served with due diligence;

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

(c) Any person, other than the parent, having care or custody of the minor.

(13) A person that receives notice under subsection (12) of this section or any other person interested in the welfare of the minor may file with the court an objection to the standby guardian's assumption of duties and powers of a guardian. The court shall hold a hearing if the objection supports a reasonable belief that the conditions for assumption of duties and powers have not been satisfied.

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

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

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

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

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

(a) The minor, if the minor is twelve years of age or older;

(b) Any attorney appointed under section 204 of this act;

(c) Each parent of the minor;

(d) Any person, other than a parent, having care or custody of the minor; and

(e) Any other person the court determines.

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

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

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

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

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

(2) A guardian for a minor shall:

(a) Be personally acquainted with the minor and maintain sufficient contact with the minor to know the minor's abilities, limitations, needs, opportunities, and physical and mental health;

(b) Take reasonable care of the minor's personal effects and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect other property of the minor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A minor subject to guardianship or a person interested in the welfare of the minor, including a parent, may petition the court to terminate the guardianship, modify the guardianship, remove the guardian and appoint a successor guardian, or remove a standby guardian and appoint a different standby guardian.

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 216. HEALTH INSURANCE COVERAGE—CONDITIONS. (1) In entering or modifying a custody order under this chapter, the court must require one or more parents to maintain or provide health insurance coverage for

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any dependent child if the following conditions are met:

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

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

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

(3) This section may not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

ARTICLE 3 GUARDIANSHIP OF ADULT

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

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

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

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

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

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

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

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

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

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

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

(ii) Adult children or, if none, each parent and adult sibling of

the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

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

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

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

(ii) Any attorney currently representing the respondent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

extension is granted, the court shall set a new hearing date.

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

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

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

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

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

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

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

- (i) Lack of expertise necessary for the proceeding;
 - (ii) An hourly rate higher than what is reasonable for the particular proceeding; or
 - (iii) A conflict of interest.
- (b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included, expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

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

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

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

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

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

- (a) Interview the petitioner and proposed guardian, if any;
- (b) Visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the appointment is made;
- (c) Obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition; and
- (d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

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

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

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

- (i) If a guardianship is recommended, whether it should be full or limited; and
- (ii) If a limited guardianship is recommended, the powers to be granted to the guardian;

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

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

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

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

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

(h) Any other matter the court directs.

NEW SECTION. Sec. 305. APPOINTMENT AND ROLE OF ATTORNEY FOR ADULT. (1) Unless the respondent in a proceeding for appointment of a guardian for an adult is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay.

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

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

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wishes;

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

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

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

(a) If the respondent requests the evaluation; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Present evidence and subpoena witnesses and documents;

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

(c) Otherwise participate in the hearing.

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

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

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

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

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

(b) Either:

(i) The petition for guardianship is dismissed; or

(ii) The guardianship is terminated.

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

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

(a) The court;

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

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

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

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

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

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

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

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

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

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

(f) A certified professional guardian or conservator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

act;

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

(c) Notice that the guardian has delegated:

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

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

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

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

(v) Substantially all powers of the guardian;

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

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

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

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

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

(i) Notice of the removal of the guardian.

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

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

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

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

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

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

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

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

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

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

(a) Seek termination or modification of the guardianship, or removal of the guardian, and choose an attorney to represent the

adult in these matters;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Immediately on filing of a petition for appointment of an emergency guardian for an adult, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency guardian for an adult

without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection (3) of this section, the court must:

(a) Give notice of the appointment not later than forty-eight hours after the appointment to:

(i) The respondent;

(ii) The respondent's attorney; and

(iii) Any other person the court determines; and

(b) Hold a hearing on the appropriateness of the appointment not later than five days after the appointment.

(5) Appointment of an emergency guardian under this section is not a determination that a basis exists for appointment of a guardian under section 301 of this act.

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

NEW SECTION. Sec. 313. DUTIES OF GUARDIAN FOR ADULT.

(1) A guardian for an adult is a fiduciary and owes the highest duty of good faith and care to the person under a guardianship. The guardian shall not substitute his or her moral or religious values, opinions, or philosophical beliefs for those of the person under a guardianship. Except as otherwise limited by the court, a guardian for an adult shall make decisions regarding the support, care, education, health, and welfare of the adult subject to guardianship to the extent necessitated by the adult's limitations.

(2) A guardian for an adult shall promote the self-determination of the adult and, to the extent reasonably feasible, encourage the adult to participate in decisions, act on the adult's own behalf, and develop or regain the capacity to manage the adult's personal affairs. In furtherance of this duty, the guardian shall:

(a) Become or remain personally acquainted with the adult and maintain sufficient contact with the adult, including through regular visitation, to know the adult's abilities, limitations, needs, opportunities, and physical and mental health;

(b) To the extent reasonably feasible, identify the values and preferences of the adult and involve the adult in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions; and

(c) Make reasonable efforts to identify and facilitate supportive relationships and services for the adult.

(3) A guardian for an adult at all times shall exercise reasonable care, diligence, and prudence when acting on behalf of or making decisions for the adult. In furtherance of this duty, the guardian shall:

(a) Take reasonable care of the personal effects, pets, and service or support animals of the adult and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect the adult's property;

(b) Expend funds and other property of the adult received by the guardian for the adult's current needs for support, care, education, health, and welfare;

(c) Conserve any funds and other property of the adult not expended under (b) of this subsection for the adult's future needs, but if a conservator has been appointed for the adult, pay the funds and other property at least quarterly to the conservator to be conserved for the adult's future needs; and

(d) Monitor the quality of services, including long-term care services, provided to the adult.

(4) In making a decision for an adult subject to guardianship, the guardian shall make the decision the guardian reasonably believes the adult would make if the adult were able unless doing

so would unreasonably harm or endanger the welfare or personal or financial interests of the adult. To determine the decision the adult subject to guardianship would make if able, the guardian shall consider the adult's previous or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the guardian.

(5) If a guardian for an adult cannot make a decision under subsection (4) of this section because the guardian does not know and cannot reasonably determine the decision the adult probably would make if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall act in accordance with the best interests of the adult. In determining the best interests of the adult, the guardian shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the adult;

(b) Other information the guardian believes the adult would have considered if the adult were able to act; and

(c) Other factors a reasonable person in the circumstances of the adult would consider, including consequences for others.

(6) A guardian for an adult immediately shall notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed.

(7) The guardian shall file with the court within thirty days of any substantial change in the condition of the person under guardianship or any changes in the residence of the person under guardianship and shall provide a copy of the notice to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court has determined is entitled to notice.

(8) To inform any person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court has determined is entitled to notice, but in no case more than five business days, after the person subject to guardianship:

(a) Makes a change in residence that is intended or likely to last more than fourteen calendar days;

(b) Has been admitted to a medical facility for acute care in response to a life-threatening injury or medical condition that requires inpatient care;

(c) Has been treated in an emergency room setting or kept for hospital observation for more than twenty-four hours; or

(d) Dies, in which case the notification must be made in person, by telephone, or by certified mail.

NEW SECTION. Sec. 314. POWERS OF GUARDIAN FOR ADULT. (1) Except as limited by court order, a guardian for an adult may:

(a) Apply for and receive funds and benefits for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;

(b) Unless inconsistent with a court order, establish the adult's place of dwelling;

(c) Consent to health or other care, treatment, or service for the adult;

(d) If a conservator for the adult has not been appointed, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel another person to support the adult or pay funds for the adult's benefit;

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

(f) Receive personally identifiable health care information regarding the adult.

(2) The court by specific order may authorize a guardian for an adult to consent to the adoption of the adult.

(3) The court by specific order may authorize a guardian for an

adult to:

(a) Consent or withhold consent to the marriage of the adult if the adult's right to marry has been removed under section 310 of this act;

(b) Petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage; or

(c) Support or oppose a petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage.

(4) In determining whether to authorize a power under subsection (2) or (3) of this section, the court shall consider whether the underlying act would be in accordance with the adult's preferences, values, and prior directions and whether the underlying act would be in the adult's best interest.

(5) In exercising a guardian's power under subsection (1)(b) of this section to establish the adult's place of dwelling, the guardian shall:

(a) Select a residential setting the guardian believes the adult would select if the adult were able, in accordance with the decision-making standard in section 313 (4) and (5) of this act. If the guardian does not know and cannot reasonably determine what setting the adult subject to guardianship probably would choose if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall choose in accordance with section 313(5) of this act a residential setting that is consistent with the adult's best interest;

(b) In selecting among residential settings, give priority to a residential setting in a location that will allow the adult to interact with persons important to the adult and meet the adult's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in section 313 (4) and (5) of this act;

(c) Not later than thirty days after a change in the dwelling of the adult:

(i) Give notice of the change to the court, the adult, and any person identified as entitled to the notice in the court order appointing the guardian or a subsequent order; and

(ii) Include in the notice the address and nature of the new dwelling and state whether the adult received advance notice of the change and whether the adult objected to the change;

(d) Establish or move the permanent place of dwelling of the adult to a nursing home, mental health facility, or other facility that places restrictions on the adult's ability to leave or have visitors only if:

(i) The establishment or move is in the guardian's plan under section 317 of this act;

(ii) The court authorizes the establishment or move; or

(iii) The guardian gives notice of the establishment or move at least fourteen days before the establishment or move to the adult and all persons entitled to notice under section 310(5)(b) of this act or a subsequent order, and no objection is filed;

(e) Establish or move the place of dwelling of the adult outside this state only if consistent with the guardian's plan and authorized by the court by specific order; and

(f) Take action that would result in the sale of or surrender of the lease to the primary dwelling of the adult only if:

(i) The action is specifically included in the guardian's plan under section 317 of this act;

(ii) The court authorizes the action by specific order; or

(iii) Notice of the action was given at least fourteen days before the action to the adult and all persons entitled to the notice under section 310(5)(b) of this act or a subsequent order and no objection has been filed.

(6) In exercising a guardian's power under subsection (1)(c) of

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this section to make health care decisions, the guardian shall:

(a) Involve the adult in decision making to the extent reasonably feasible, including, when practicable, by encouraging and supporting the adult in understanding the risks and benefits of health care options;

(b) Defer to a decision by an agent under a power of attorney for health care executed by the adult and cooperate to the extent feasible with the agent making the decision; and

(c) Take into account:

(i) The risks and benefits of treatment options; and

(ii) The current and previous wishes and values of the adult, if known or reasonably ascertainable by the guardian.

(7) Notwithstanding subsection (1)(b) of this section no residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an individual subject to a guardianship shall be void and of no force or effect. This section does not apply to the detention of a minor as provided in chapter 71.34 RCW.

(8) Nothing in this section shall be construed to require a court order authorizing placement of an incapacitated person in a residential treatment facility if such order is not otherwise required by law: PROVIDED, That notice of any residential placement of an individual subject to a guardianship shall be served, either before or after placement, by the guardian or limited guardian on such individual, any visitor of record, any guardian ad litem of record, and any attorney of record.

NEW SECTION. Sec. 315. SPECIAL LIMITATIONS ON GUARDIAN'S POWER. (1) Unless authorized by the court by specific order, a guardian for an adult does not have the power to revoke or amend a power of attorney for health care or power of attorney for finances executed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent which the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible.

(2) A guardian for an adult may not initiate the commitment of the adult to an evaluation and treatment facility except in accordance with the state's procedure for involuntary civil commitment.

(3) Unless authorized by the court in accordance with subsection (4) of this section within the past thirty days, a guardian for an adult may not consent to any of the following procedures for the adult:

(a) Therapy or other procedure to induce convulsion;

(b) Surgery solely for the purpose of psychosurgery; or

(c) Other psychiatric or mental health procedures that restrict physical freedom of movement or the rights set forth in RCW 71.05.217.

(4) The court may order a procedure listed in subsection (3) of this section only after giving notice to the adult's attorney and holding a hearing. If the adult does not have an attorney, the court must appoint an attorney for the adult prior to entering an order under this subsection.

(5) PERSONS UNDER A GUARDIANSHIP, CONSERVATORSHIP, OR OTHER PROTECTIVE

ARRANGEMENTS—RIGHT TO ASSOCIATE WITH PERSONS OF THEIR CHOOSING.

(a) Except as otherwise provided in this section, a person under a guardianship retains the right to associate with persons of the person under a guardianship's choosing. This right includes, but is not limited to, the right to freely communicate and interact with other persons, whether through in-person visits, telephone calls, electronic communication, personal mail, or other means. If the person under a guardianship is unable to express consent for communication, visitation, or interaction with another person, or is otherwise unable to make a decision regarding association with another person, a guardian of a person under a guardianship, whether full or limited, must:

(i) Personally inform the person under a guardianship of the decision under consideration, using plain language, in a manner calculated to maximize the understanding of the person under a guardianship;

(ii) Maximize the person under a guardianship's participation in the decision-making process to the greatest extent possible, consistent with the person under a guardianship's abilities; and

(iii) Give substantial weight to the person under a guardianship's preferences, both expressed and historical.

(b) A guardian or limited guardian may not restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing, unless:

(i) The restriction is specifically authorized by the guardianship court in the court order establishing or modifying the guardianship or limited guardianship under chapter 11.--- RCW (the new chapter created in section 806 of this act);

(ii) The restriction is pursuant to a protection order issued under chapter 74.34 RCW, chapter 26.50 RCW, or other law, that limits contact between the person under a guardianship and other persons;

(iii)(A) The guardian or limited guardian has good cause to believe that there is an immediate need to restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing in order to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation, as those terms are defined in RCW 74.34.020, or to protect the person under a guardianship from activities that unnecessarily impose significant distress on the person under a guardianship; and

(B) Within fourteen calendar days of imposing the restriction under (b)(iii)(A) of this subsection, the guardian or limited guardian files a petition for a protection order under chapter 74.34 RCW. The immediate need restriction may remain in place until the court has heard and issued an order or decision on the petition; or

(iv) The restriction is pursuant to participation in the community protection program under chapter 71A.12 RCW.

(6) A protection order under chapter 74.34 RCW issued to protect the person under a guardianship as described in subsection (5)(b)(iii)(B) of this section:

(a) Must include written findings of fact and conclusions of law;

(b) May not be more restrictive than necessary to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020; and

(c) May not deny communication, visitation, interaction, or other association between the person under a guardianship and another person unless the court finds that placing reasonable time, place, or manner restrictions is unlikely to sufficiently protect the person under a guardianship from abuse, neglect, abandonment,

or financial exploitation as those terms are defined in RCW 74.34.020.

Sec. 316. RCW 11.125.080 and 2016 c 209 s 108 are each amended to read as follows:

(1) In a power of attorney, a principal may nominate a guardian of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(2) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of all of the principal's property, the power of attorney ~~((is terminated and the agent's authority does not continue unless continued by the court))~~ remains in effect subject to the provisions of section 315(1) of this act.

(3) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some but not all of the principal's property, the power of attorney shall not terminate or be modified, except to the extent ordered by the court.

NEW SECTION. Sec. 317. GUARDIAN'S PLAN. (1) A guardian for an adult, not later than ninety days after appointment, shall file with the court a plan for the care of the adult and shall provide a copy of the plan to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The plan must be based on the needs of the adult and take into account the best interest of the adult as well as the adult's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the guardian. The guardian shall include in the plan:

(a) The living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;

(b) Social and educational activities the guardian expects to facilitate on behalf of the adult;

(c) Any person with whom the adult has a close personal relationship or relationship involving regular visitation and any plan the guardian has for facilitating visits with the person;

(d) The anticipated nature and frequency of the guardian's visits and communication with the adult;

(e) Goals for the adult, including any goal related to the restoration of the adult's rights, and how the guardian anticipates achieving the goals;

(f) Whether the adult has an existing plan and, if so, whether the guardian's plan is consistent with the adult's plan; and

(g) A statement or list of the amount the guardian proposes to charge for each service the guardian anticipates providing to the adult.

(2) A guardian shall give notice of the filing of the guardian's plan under subsection (1) of this section, together with a copy of the plan, to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An adult subject to guardianship and any person entitled under subsection (2) of this section to receive notice and a copy of the guardian's plan may object to the plan.

(4) The court shall review the guardian's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of

this section and whether the plan is consistent with the guardian's duties and powers under sections 313 and 314 of this act. The court may not approve the plan until thirty days after its filing.

(5) After the guardian's plan filed under this section is approved by the court, the guardian shall provide a copy of the order approving the plan to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines.

NEW SECTION. Sec. 318. GUARDIAN'S REPORT—MONITORING OF GUARDIANSHIP. (1) A guardian for an adult shall file with the court by the date established by the court a report in a record regarding the condition of the adult and accounting for funds and other property in the guardian's possession or subject to the guardian's control. The guardian shall provide a copy of the report to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines.

(2) A report under subsection (1) of this section must state or contain:

(a) The mental, physical, and social condition of the adult;

(b) The living arrangements of the adult during the reporting period;

(c) A summary of the supported decision making, technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult and the guardian's opinion as to the adequacy of the adult's care;

(d) A summary of the guardian's visits with the adult, including the dates of the visits;

(e) Action taken on behalf of the adult;

(f) The extent to which the adult has participated in decision making;

(g) If the adult is living in an evaluation and treatment facility or living in a facility that provides the adult with health care or other personal services, whether the guardian considers the facility's current plan for support, care, treatment, or habilitation consistent with the adult's preferences, values, prior directions, and best interests;

(h) Anything of more than de minimis value which the guardian, any individual who resides with the guardian, or the spouse, domestic partner, parent, child, or sibling of the guardian has received from an individual providing goods or services to the adult. A professional guardian must abide by the standards of practice regarding the acceptance of gifts;

(i) If the guardian delegated a power to an agent, the power delegated and the reason for the delegation;

(j) Any business relation the guardian has with a person the guardian has paid or that has benefited from the property of the adult;

(k) A copy of the guardian's most recently approved plan under section 317 of this act and a statement whether the guardian has deviated from the plan and, if so, how the guardian has deviated and why;

(l) Plans for future care and support of the adult;

(m) A recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship; and

(n) Whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve.

(3) The court may appoint a visitor to review a report submitted under this section or a guardian's plan submitted under section 317 of this act, interview the guardian or adult subject to guardianship, or investigate any other matter involving the guardianship.

(4) Notice of the filing under this section of a guardian's report,

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together with a copy of the report, must be given to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The notice and report must be given not later than fourteen days after the filing.

(5) The court shall establish procedures for monitoring a report submitted under this section and review each report to determine whether:

(a) The report provides sufficient information to establish the guardian has complied with the guardian's duties;

(b) The guardianship should continue; and

(c) The guardian's requested fees, if any, should be approved.

(6) If the court determines there is reason to believe a guardian for an adult has not complied with the guardian's duties or the guardianship should be modified or terminated, the court:

(a) Shall notify the adult, the guardian, and any other person entitled to notice under section 310(5) of this act or a subsequent order;

(b) May require additional information from the guardian;

(c) May appoint a visitor to interview the adult or guardian or investigate any matter involving the guardianship; and

(d) Consistent with sections 318 and 319 of this act, may hold a hearing to consider removal of the guardian, termination of the guardianship, or a change in the powers granted to the guardian or terms of the guardianship.

(7) If the court has reason to believe fees requested by a guardian for an adult are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

(8) A guardian for an adult must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(9) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review interval at annual, biennial, or triennial with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the guardian has been serving the person under guardianship; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian.

(10) If the court approves a report filed under this section, the order approving the report shall contain a guardianship summary or be accompanied by a guardianship summary in the form or substantially in the same form as set forth in section 606 of this act.

(11) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in section 605 of this act to the guardian containing an expiration date which will be within one hundred twenty days after the date the court directs the guardian file its next report.

(12) Any requirement to establish a monitoring program under this section is subject to appropriation.

NEW SECTION. Sec. 319. REMOVAL OF GUARDIAN FOR ADULT—APPOINTMENT OF SUCCESSOR. (1) The court may remove a guardian for an adult for failure to perform the guardian's duties or for other good cause and appoint a successor guardian to assume the duties of guardian.

(2) The court shall hold a hearing to determine whether to

remove a guardian for an adult and appoint a successor guardian on:

(a) Petition of the adult, guardian, or person interested in the welfare of the adult, which contains allegations that, if true, would support a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the adult, guardian, or person interested in the welfare of the adult which supports a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate; or

(c) Determination by the court that a hearing would be in the best interest of the adult.

(3) Notice of a hearing under subsection (2)(a) of this section and notice of the adult subject to guardianship's right to be represented at the hearing by counsel of the individual's choosing must be given to the adult subject to guardianship, the guardian, and any other person the court determines.

(4) An adult subject to guardianship who seeks to remove the guardian and have a successor guardian appointed has the right to choose an attorney to represent the adult in this matter. The court shall award reasonable attorneys' fees to the attorney for the adult as provided in section 120 of this act.

(5) In selecting a successor guardian for an adult, the court shall follow the priorities under section 309 of this act.

(6) Not later than fourteen days after appointing a successor guardian, the successor guardian shall give notice of the appointment to the adult subject to guardianship and any person entitled to notice under section 310(5) of this act or a subsequent order.

NEW SECTION. Sec. 320. TERMINATION OR MODIFICATION OF GUARDIANSHIP FOR ADULT. (1) An adult subject to guardianship, the guardian for the adult, or a person interested in the welfare of the adult may petition for:

(a) Termination of the guardianship on the ground that a basis for appointment under section 301 of this act does not exist or termination would be in the best interest of the adult or for other good cause; or

(b) Modification of the guardianship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(2) The court shall hold a hearing to determine whether termination or modification of a guardianship for an adult is appropriate on:

(a) Petition under subsection (1) of this section that contains allegations that, if true, would support a reasonable belief that termination or modification of the guardianship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the adult, guardian, or person interested in the welfare of the adult which supports a reasonable belief that termination or modification of the guardianship may be appropriate, including because the functional needs of the adult or supports or services available to the adult have changed;

(c) A report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs of the adult or supports or services available to the adult have changed or a protective arrangement instead of guardianship or other less restrictive alternative for meeting the adult's needs is available; or

(d) A determination by the court that a hearing would be in the best interest of the adult.

(3) Notice of a petition under subsection (2)(a) of this section must be given to the adult subject to guardianship, the guardian, and any other person the court determines.

(4) On presentation of prima facie evidence for termination of a guardianship for an adult, the court shall order termination unless it is proven that a basis for appointment of a guardian under section 301 of this act exists.

(5) The court shall modify the powers granted to a guardian for an adult if the powers are excessive or inadequate due to a change in the abilities or limitations of the adult, the adult's supports, or other circumstances.

(6) Unless the court otherwise orders for good cause, before terminating or modifying a guardianship for an adult, the court shall follow the same procedures to safeguard the rights of the adult which apply to a petition for guardianship.

(7) An adult subject to guardianship who seeks to terminate or modify the terms of the guardianship has the right to choose an attorney to represent the adult in the matter. The court shall award reasonable attorneys' fees to the attorney for the adult as provided in section 120 of this act.

ARTICLE 4 CONSERVATORSHIP

NEW SECTION. Sec. 401. BASIS FOR APPOINTMENT OF CONSERVATOR. (1) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of a minor if the court finds by a preponderance of evidence that appointment of a conservator is in the minor's best interest, and:

(a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an appointment is in the minor's best interest; and

(b) Either:

(i) The minor owns funds or other property requiring management or protection that otherwise cannot be provided;

(ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(iii) Appointment is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the minor.

(2) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services, technological assistance, or supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) Appointment is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or of an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives.

(3) The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full conservatorship if a limited

conservatorship, protective arrangement instead of conservatorship, or other less restrictive alternative would meet the needs of the respondent.

NEW SECTION. Sec. 402. PETITION FOR APPOINTMENT OF CONSERVATOR. (1) The following may petition for the appointment of a conservator:

(a) The individual for whom the order is sought;

(b) A person interested in the estate, financial affairs, or welfare of the individual, including a person that would be adversely affected by lack of effective management of property or financial affairs of the individual; or

(c) The guardian for the individual.

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

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

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

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

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

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

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

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

(ii) Any attorney currently representing the respondent;

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

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

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

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

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

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

(ix) A person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition;

(x) Any proposed conservator, including a person nominated by the respondent, if the respondent is twelve years of age or older; and

(xi) If the individual for whom a conservator is sought is a minor:

(A) An adult not otherwise listed with whom the minor resides; and

(B) Each person not otherwise listed that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

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(d) A general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts;

(e) The reason conservatorship is necessary, including a brief description of:

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

(ii) If the petition alleges the respondent is missing, detained, or unable to return to the United States, the relevant circumstances, including the time and nature of the disappearance or detention and any search or inquiry concerning the respondent's whereabouts;

(iii) Any protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(iv) If no protective arrangement or other less restrictive alternatives have been considered or implemented, the reason it has not been considered or implemented; and

(v) The reason a protective arrangement or other less restrictive alternative is insufficient to meet the respondent's need;

(f) Whether the petitioner seeks a limited conservatorship or a full conservatorship;

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

(h) If the petition includes the name of a proposed conservator, the reason the proposed conservator should be appointed;

(i) If the petition is for a limited conservatorship, a description of the property to be placed under the conservator's control and any requested limitation on the authority of the conservator;

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

(k) The name and address of an attorney representing the petitioner, if any.

NEW SECTION. Sec. 403. NOTICE AND HEARING FOR APPOINTMENT OF CONSERVATOR. (1) All petitions filed under section 402 of this act for appointment of a conservator shall be heard within sixty days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2) A copy of a petition under section 402 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 405 of this act not more than five court days after the petition under section 402 of this act has been filed. If the respondent's whereabouts are unknown or personal service cannot be made, service on the respondent must be made by publication. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant a petition for appointment of a conservator if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 402 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 402(2) (a) through (c) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

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

(a) The individual subject to conservatorship, if the individual

is twelve years of age or older and not missing, detained, or unable to return to the United States;

(b) The conservator; and

(c) Any other person the court determines.

NEW SECTION. Sec. 404. ORDER TO PRESERVE OR APPLY PROPERTY WHILE PROCEEDING PENDING. While a petition under section 402 of this act is pending, after preliminary hearing and without notice to others, the court may issue an order to preserve and apply property of the respondent as required for the support of the respondent or an individual who is in fact dependent on the respondent. The court may appoint a special agent to assist in implementing the order.

NEW SECTION. Sec. 405. APPOINTMENT AND ROLE OF VISITOR. (1) If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(2) If the respondent in a proceeding to appoint a conservator is an adult, the court shall appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

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

(4)(a) The visitor appointed under subsection (1) or (2) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor should not be removed for one of the following three reasons:

(i) Lack of expertise necessary for the proceeding;

(ii) An hourly rate higher than what is reasonable for the particular proceeding; or

(iii) A conflict of interest.

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

(5) A visitor appointed under subsection (2) of this section for an adult shall interview the respondent in person and in a manner the respondent is best able to understand:

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

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties, and

the scope and duration of the proposed conservatorship; and

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

(6) A visitor appointed under subsection (2) of this section for an adult shall:

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

(b) Review financial records of the respondent, if relevant to the visitor's recommendation under subsection (7)(b) of this section;

(c) Investigate whether the respondent's needs could be met by a protective arrangement instead of conservatorship or other less restrictive alternative and, if so, identify the arrangement or other less restrictive alternative; and

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

(7) A visitor appointed under subsection (2) of this section for an adult shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under section 116 of this act at least fifteen days prior to the hearing on the petition filed under section 402 of this act, which must include:

(a) A recommendation:

(i) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;

(ii) If a conservatorship is recommended, whether it should be full or limited;

(iii) If a limited conservatorship is recommended, the powers to be granted to the conservator, and the property that should be placed under the conservator's control; and

(iv) If a conservatorship is recommended, the amount of the bond or other verified receipt needed under sections 416 and 417 of this act;

(b) A statement of the qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;

(c) A recommendation whether a professional evaluation under section 407 of this act is necessary;

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

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

(f) Any other matter the court directs.

NEW SECTION. Sec. 406. APPOINTMENT AND ROLE OF ATTORNEY. (1) Unless the respondent in a proceeding for appointment of a conservator is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay.

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

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

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

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

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 402 of this act if:

(a) The parent objects to appointment of a conservator;

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

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

NEW SECTION. Sec. 407. PROFESSIONAL EVALUATION. (1) At or before a hearing on a petition for conservatorship for an adult, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

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

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

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations with regard to the management of the respondent's property and financial affairs;

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

(c) A prognosis for improvement with regard to the ability to manage the respondent's property and financial affairs; and

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

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

NEW SECTION. Sec. 408. ATTENDANCE AND RIGHTS AT HEARING. (1) Except as otherwise provided in subsection (2) of this section, a hearing under section 403 of this act may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under section 403 of this act may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

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

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

(c) The respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(3) The respondent may be assisted in a hearing under section 403 of this act by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to

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represent the respondent at a hearing under section 403 of this act.

(5) At a hearing under section 403 of this act, the respondent may:

- (a) Present evidence and subpoena witnesses and documents;
- (b) Examine witnesses, including any court-appointed evaluator and the visitor; and
- (c) Otherwise participate in the hearing.

(6) Unless excused by the court for good cause, a proposed conservator shall attend a hearing under section 403 of this act.

(7) A hearing under section 403 of this act must be closed on request of the respondent and a showing of good cause.

(8) Any person may request to participate in a hearing under section 403 of this act. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

NEW SECTION. Sec. 409. CONFIDENTIALITY OF RECORDS. (1) The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to conservatorship, or the parent of a minor subject to conservatorship requests the record be sealed; and

(b) Either:

- (i) The petition for conservatorship is dismissed; or
- (ii) The conservatorship is terminated.

(2) An individual subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated by the individual, and a person entitled to notice under section 411(6) of this act or a subsequent order may access court records of the proceeding and resulting conservatorship, including the conservator's plan under section 419 of this act and the conservator's report under section 423 of this act. A person not otherwise entitled access to court records under this section for good cause may petition the court for access to court records of the conservatorship, including the conservator's plan and report. The court shall grant access if access is in the best interest of the respondent or individual subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report under section 405 of this act of a visitor or professional evaluation under section 407 of this act is confidential and must be sealed on filing, but is available to:

- (a) The court;
- (b) The individual who is the subject of the report or evaluation, without limitation as to use;
- (c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the respondent is identified as the principal; and

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

NEW SECTION. Sec. 410. WHO MAY BE CONSERVATOR—ORDER OF PRIORITY. (1) Except as otherwise provided in subsection (3) of this section, the court in appointing a conservator shall consider persons qualified to be a conservator in the following order of priority:

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

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

(c) An agent appointed by the respondent to manage the respondent's property under a power of attorney for finances;

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

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

(f) A certified professional guardian or conservator or other entity the court determines is suitable.

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

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

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

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

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

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

NEW SECTION. Sec. 411. ORDER OF APPOINTMENT OF CONSERVATOR. (1) A court order appointing a conservator for a minor must include findings to support appointment of a conservator and, if a full conservatorship is granted, the reason a limited conservatorship would not meet the identified needs of the minor.

(2) A court order appointing a conservator for a minor may dispense with the requirement for the conservator to file reports with the court under section 423 of this act if all the property of the minor subject to the conservatorship is protected by a verified receipt.

(3) A court order appointing a conservator for an adult must:

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

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

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

(5) A court order establishing a limited conservatorship must state the specific property placed under the control of the conservator and the powers granted to the conservator.

(6) The court, as part of an order establishing a conservatorship, shall identify any person that subsequently is entitled to:

(a) Notice of the rights of the individual subject to

conservatorship under section 412(2) of this act;

(b) Notice of a sale of or surrender of a lease to the primary dwelling of the individual;

(c) Notice that the conservator has delegated a power that requires court approval under section 414 of this act or substantially all powers of the conservator;

(d) Notice that the conservator will be unavailable to perform the conservator's duties for more than one month;

(e) A copy of the conservator's plan under section 419 of this act and the conservator's report under section 423 of this act;

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

(g) Notice of a transaction involving a substantial conflict between the conservator's fiduciary duties and personal interests;

(h) Notice of the death or significant change in the condition of the individual;

(i) Notice that the court has limited or modified the powers of the conservator; and

(j) Notice of the removal of the conservator.

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

(8) If an individual subject to conservatorship is a minor, each parent and adult sibling of the minor is entitled under subsection (6) of this section to notice unless the court determines notice would not be in the best interest of the minor.

(9) All orders establishing a conservatorship for an adult must contain:

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

(b) The date which the limited conservator or conservator must file the conservator's plan under section 419 of this act;

(c) The date which the limited conservator or conservator must file an inventory under section 420 of this act;

(d) The date by which the court will review the conservator's plan as required by section 419 of this act;

(e) The report interval which the conservator must file its report under section 423 of this act. The report interval may be annual, biennial, or triennial;

(f) The date the limited conservator or conservator must file its report under section 423 of this act. The due date of the filing of the report shall be within ninety days after the anniversary date of the appointment;

(g) The date for the court to review the report under section 423 of this act and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment.

NEW SECTION. Sec. 412. NOTICE OF ORDER OF APPOINTMENT—RIGHTS. (1) A conservator appointed under section 411 of this act shall give to the individual subject to conservatorship and to all other persons given notice under section 403 of this act a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen days after the appointment.

(2) Not later than thirty days after appointment of a conservator under section 411 of this act, the conservator shall give to the individual subject to conservatorship and any other person entitled to notice under section 411(6) of this act a statement of the rights of the individual subject to conservatorship and procedures to seek relief if the individual is denied those rights. The statement must be in plain language, in at least sixteen-point

font, and to the extent feasible, in a language in which the individual subject to conservatorship is proficient. The statement must notify the individual subject to conservatorship of the right to:

(a) Seek termination or modification of the conservatorship, or removal of the conservator, and choose an attorney to represent the individual in these matters;

(b) Participate in decision making to the extent reasonably feasible;

(c) Receive a copy of the conservator's plan under section 419 of this act, the conservator's inventory under section 420 of this act, and the conservator's report under section 423 of this act; and

(d) Object to the conservator's inventory, plan, or report.

(3) If a conservator is appointed for the reasons stated in section 401(2)(a)(ii) of this act and the individual subject to conservatorship is missing, notice under this section to the individual is not required.

NEW SECTION. Sec. 413. EMERGENCY CONSERVATOR. (1) On its own or on petition by a person interested in an individual's welfare after a petition has been filed under section 402 of this act, the court may appoint an emergency conservator for the individual if the court finds:

(a) Appointment of an emergency conservator is likely to prevent substantial and irreparable harm to the individual's property or financial interests;

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

(c) There is reason to believe that a basis for appointment of a conservator under section 401 of this act exists.

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

(3) Immediately on filing of a petition for an emergency conservator, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency conservator without notice to the respondent and any attorney for the respondent only if the court finds from an affidavit or testimony that the respondent's property or financial interests will be substantially and irreparably harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency conservator without giving notice under subsection (3) of this section, the court must give notice of the appointment not later than forty-eight hours after the appointment to:

(a) The respondent;

(b) The respondent's attorney; and

(c) Any other person the court determines.

(5) Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(6) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under section 401 of this act.

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

NEW SECTION. Sec. 414. POWERS OF

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CONSERVATOR REQUIRING COURT APPROVAL. (1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under section 403(4) of this act and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

- (a) Make a gift, except a gift of de minimis value;
- (b) Sell, encumber an interest in, or surrender a lease to the primary dwelling of the individual subject to conservatorship;
- (c) Convey, release, or disclaim a contingent or expectant interest in property, including marital property and any right of survivorship incident to joint tenancy or tenancy by the entireties;
- (d) Exercise or release a power of appointment;
- (e) Create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the individual subject to conservatorship;
- (f) Exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value;
- (g) Exercise a right to an elective share in the estate of a deceased spouse or domestic partner of the individual subject to conservatorship or renounce or disclaim a property interest;
- (h) Grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under section 428(5) of this act; and

(i) Make, modify, amend, or revoke the will of the individual subject to conservatorship in compliance with chapter 11.12 RCW.

(2) In approving a conservator's exercise of a power listed in subsection (1) of this section, the court shall consider primarily the decision the individual subject to conservatorship would make if able, to the extent the decision can be ascertained.

(3) To determine under subsection (2) of this section the decision the individual subject to conservatorship would make if able, the court shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator. The court also shall consider:

- (a) The financial needs of the individual subject to conservatorship and individuals who are in fact dependent on the individual subject to conservatorship for support, and the interests of creditors of the individual;
- (b) Possible reduction of income, estate, inheritance, or other tax liabilities;
- (c) Eligibility for governmental assistance;
- (d) The previous pattern of giving or level of support provided by the individual;
- (e) Any existing estate plan or lack of estate plan of the individual;
- (f) The life expectancy of the individual and the probability the conservatorship will terminate before the individual's death; and
- (g) Any other relevant factor.

(4) A conservator may not revoke or amend a power of attorney for finances executed by the individual subject to conservatorship. If a power of attorney for finances is in effect, a decision of the agent takes precedence over that of the conservator, unless the court orders otherwise.

NEW SECTION. Sec. 415. PETITION FOR ORDER AFTER APPOINTMENT. An individual subject to conservatorship or a person interested in the welfare of the individual may petition for an order:

(1) Requiring the conservator to furnish a bond or collateral or additional bond or collateral or allowing a reduction in a bond or collateral previously furnished;

(2) Requiring an accounting for the administration of the conservatorship estate;

(3) Directing distribution;

(4) Removing the conservator and appointing a temporary or successor conservator;

(5) Modifying the type of appointment or powers granted to the conservator, if the extent of protection or management previously granted is excessive or insufficient to meet the individual's needs, including because the individual's abilities or supports have changed;

(6) Rejecting or modifying the conservator's plan under section 419 of this act, the conservator's inventory under section 420 of this act, or the conservator's report under section 423 of this act; or

(7) Granting other appropriate relief.

NEW SECTION. Sec. 416. BOND—ALTERNATIVE VERIFIED RECEIPT. (1) Except as otherwise provided in subsections (3) and (4) of this section, the court shall require a conservator to furnish a bond with a surety the court specifies, or require a verified receipt, conditioned on faithful discharge of all duties of the conservator. The court may waive the requirement only if the court finds that a bond or other verified receipt is not necessary to protect the interests of the individual subject to conservatorship. Except as otherwise provided in subsections (3) and (4) of this section, the court may not waive the requirement if the conservator is in the business of serving as a conservator and is being paid for the conservator's service.

(2) Unless the court directs otherwise, the bond required under this section must be in the amount of the aggregate capital value of the conservatorship estate, plus the estimated income for the accounting and report review interval, less the value of property deposited under a verified receipt requiring a court order for its removal and real property the conservator lacks power to sell or convey without specific court authorization. The court, in place of surety on a bond, may accept collateral for the performance of the bond, including a pledge of securities or a mortgage of real property.

(3) A regulated financial institution qualified to do trust business in this state is not required to give a bond under this section.

(4) In all conservatorships where the person subject to conservatorship has total assets of a value of less than three thousand dollars, the court may dispense with the requirement of a bond: **PROVIDED**, That the conservator swears to report to the court any changes in the total assets of the person subject to conservatorship increasing their value to over three thousand dollars: **PROVIDED FURTHER**, That the conservator files a yearly statement showing the monthly income of the person subject to conservatorship if such monthly income, excluding moneys from state or federal benefits, is over the sum of five hundred dollars per month for any three consecutive months.

NEW SECTION. Sec. 417. TERMS AND REQUIREMENTS OF BOND. (1) The following rules apply to the bond required under section 416 of this act:

(a) Except as otherwise provided by the bond, the surety and the conservator are jointly and severally liable.

(b) By executing a bond provided by a conservator, the surety submits to the personal jurisdiction of the court that issued letters of office to the conservator in a proceeding relating to the duties of the conservator in which the surety is named as a party. Notice of the proceeding must be given to the surety at the address shown

in the records of the court in which the bond is filed and any other address of the surety then known to the person required to provide the notice.

(c) On petition of a successor conservator or person affected by a breach of the obligation of the bond, a proceeding may be brought against the surety for breach of the obligation of the bond.

(d) A proceeding against the bond may be brought until liability under the bond is exhausted.

(2) A proceeding may not be brought under this section against a surety of a bond on a matter as to which a proceeding against the conservator is barred.

(3) If a bond under section 416 of this act is not renewed by the conservator, the surety or sureties immediately shall give notice to the court and the individual subject to conservatorship.

NEW SECTION. Sec. 418. DUTIES OF CONSERVATOR. (1) A conservator is a fiduciary and has duties of prudence and loyalty to the individual subject to conservatorship.

(2) A conservator shall promote the self-determination of the individual subject to conservatorship and, to the extent feasible, encourage the individual to participate in decisions, act on the individual's own behalf, and develop or regain the capacity to manage the individual's personal affairs.

(3) In making a decision for an individual subject to conservatorship, the conservator shall make the decision the conservator reasonably believes the individual would make if able, unless doing so would fail to preserve the resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual. To determine the decision the individual would make if able, the conservator shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator.

(4) If a conservator cannot make a decision under subsection (3) of this section because the conservator does not know and cannot reasonably determine the decision the individual subject to conservatorship probably would make if able, or the conservator reasonably believes the decision the individual would make would fail to preserve resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual, the conservator shall act in accordance with the best interests of the individual. In determining the best interests of the individual, the conservator shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the individual;

(b) Other information the conservator believes the individual would have considered if the individual were able to act; and

(c) Other factors a reasonable person in the circumstances of the individual would consider, including consequences for others.

(5) Except when inconsistent with the conservator's duties under subsections (1) through (4) of this section, a conservator shall invest and manage the conservatorship estate as a prudent investor would, by considering:

(a) The circumstances of the individual subject to conservatorship and the conservatorship estate;

(b) General economic conditions;

(c) The possible effect of inflation or deflation;

(d) The expected tax consequences of an investment decision or strategy;

(e) The role of each investment or course of action in relation to the conservatorship estate as a whole;

(f) The expected total return from income and appreciation of capital;

(g) The need for liquidity, regularity of income, and preservation or appreciation of capital; and

(h) The special relationship or value, if any, of specific property to the individual subject to conservatorship.

(6) The propriety of a conservator's investment and management of the conservatorship estate is determined in light of the facts and circumstances existing when the conservator decides or acts and not by hindsight.

(7) A conservator shall make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.

(8) A conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the conservator's duties.

(9) In investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the individual subject to conservatorship, a conservator shall consider any estate plan of the individual known or reasonably ascertainable to the conservator and may examine the will or other donative, nominative, or appointive instrument of the individual.

(10) A conservator shall maintain insurance on the insurable real and personal property of the individual subject to conservatorship, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds:

(a) The property lacks sufficient equity; or

(b) Insuring the property would unreasonably dissipate the conservatorship estate or otherwise not be in the best interest of the individual.

(11) If a power of attorney for finances is in effect, a conservator shall cooperate with the agent to the extent feasible.

(12) A conservator has access to and authority over a digital asset of the individual subject to conservatorship to the extent provided by the revised uniform fiduciary access to digital assets act (chapter 11.120 RCW) or court order.

(13) A conservator for an adult shall notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed. The notice must be given immediately on learning of the change.

(14) A conservator shall notify the court within thirty days of any substantial change in the value of the property of the person subject to conservatorship and shall provide a copy of the notice to the person subject to guardianship, a person entitled to notice under section 403 of this act or a subsequent order, and any other person the court has determined is entitled to notice and schedule a hearing for the court to review the adequacy of the bond or other verified receipt under sections 416 and 417 of this act.

NEW SECTION. Sec. 419. CONSERVATOR'S PLAN.

(1) A conservator, not later than ninety days after appointment, shall file with the court a plan for protecting, managing, expending, and distributing the assets of the conservatorship estate. The plan must be based on the needs of the individual subject to conservatorship and take into account the best interest of the individual as well as the individual's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the conservator. The conservator shall include in the plan:

(a) A budget containing projected expenses and resources, including an estimate of the total amount of fees the conservator anticipates charging per year and a statement or list of the amount the conservator proposes to charge for each service the conservator anticipates providing to the individual;

(b) How the conservator will involve the individual in decisions about management of the conservatorship estate;

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(c) Any step the conservator plans to take to develop or restore the ability of the individual to manage the conservatorship estate; and

(d) An estimate of the duration of the conservatorship.

(2) A conservator shall give notice of the filing of the conservator's plan under subsection (1) of this section, together with a copy of the plan, to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An individual subject to conservatorship and any person entitled under subsection (2) of this section to receive notice and a copy of the conservator's plan may object to the plan.

(4) The court shall review the conservator's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of this section and whether the plan is consistent with the conservator's duties and powers. The court may not approve the plan until thirty days after its filing.

(5) After a conservator's plan under this section is approved by the court, the conservator shall provide a copy of the plan to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines.

NEW SECTION. Sec. 420. INVENTORY—RECORDS.

(1) Not later than sixty days after appointment, a conservator shall prepare and file with the appointing court a detailed inventory of the conservatorship estate, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

(2) A conservator shall give notice of the filing of an inventory to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines. The notice must be given not later than fourteen days after the filing.

(3) A conservator shall keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the individual subject to conservatorship, a guardian for the individual, or any other person the conservator or the court determines.

NEW SECTION. Sec. 421. ADMINISTRATIVE POWERS OF CONSERVATOR NOT REQUIRING COURT APPROVAL.

(1) Except as otherwise provided in section 414 of this act or qualified or limited in the court's order of appointment and stated in the letters of office, a conservator has all powers granted in this section and any additional power granted to a trustee by law of this state other than this chapter.

(2) A conservator, acting reasonably and consistent with the fiduciary duties of the conservator to accomplish the purpose of the conservatorship, without specific court authorization or confirmation, may with respect to the conservatorship estate:

(a) Collect, hold, and retain property, including property in which the conservator has a personal interest and real property in another state, until the conservator determines disposition of the property should be made;

(b) Receive additions to the conservatorship estate;

(c) Continue or participate in the operation of a business or other enterprise;

(d) Acquire an undivided interest in property in which the conservator, in a fiduciary capacity, holds an undivided interest;

(e) Invest assets;

(f) Deposit funds or other property in a financial institution, including one operated by the conservator;

(g) Acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon property;

(h) Make ordinary or extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;

(i) Subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition land by giving or receiving consideration, and dedicate an easement to public use without consideration;

(j) Enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term within or extending beyond the term of the conservatorship;

(k) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or a pooling or unitization agreement;

(l) Grant an option involving disposition of property or accept or exercise an option for the acquisition of property;

(m) Vote a security, in person or by general or limited proxy;

(n) Pay a call, assessment, or other sum chargeable or accruing against or on account of a security;

(o) Sell or exercise a stock subscription or conversion right;

(p) Consent, directly or through a committee or agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(q) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery;

(r) Insure:

(i) The conservatorship estate, in whole or in part, against damage or loss in accordance with section 418(10) of this act; and

(ii) The conservator against liability with respect to a third person;

(s) Borrow funds, with or without security, to be repaid from the conservatorship estate or otherwise;

(t) Advance funds for the protection of the conservatorship estate or the individual subject to conservatorship and all expenses, losses, and liability sustained in the administration of the conservatorship estate or because of holding any property for which the conservator has a lien on the conservatorship estate;

(u) Pay or contest a claim, settle a claim by or against the conservatorship estate or the individual subject to conservatorship by compromise, arbitration, or otherwise, or release, in whole or in part, a claim belonging to the conservatorship estate to the extent the claim is uncollectible;

(v) Pay a tax, assessment, compensation of the conservator or any guardian, and other expense incurred in the collection, care, administration, and protection of the conservatorship estate;

(w) Pay a sum distributable to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship by paying the sum to the distributee or for the use of the distributee:

(i) To the guardian for the distributee;

(ii) To the custodian of the distributee under the uniform transfers to minors act (chapter 11.114 RCW); or

(iii) If there is no guardian, custodian, or custodial trustee, to a relative or other person having physical custody of the distributee;

(x) Bring or defend an action, claim, or proceeding in any jurisdiction for the protection of the conservatorship estate or the conservator in the performance of the conservator's duties;

(y) Structure the finances of the individual subject to

conservatorship to establish eligibility for a public benefit, including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties; and

(z) Execute and deliver any instrument that will accomplish or facilitate the exercise of a power of the conservator.

NEW SECTION. Sec. 422. DISTRIBUTION FROM CONSERVATORSHIP ESTATE. Except as otherwise provided in section 414 of this act or qualified or limited in the court's order of appointment and stated in the letters of office, and unless contrary to a conservator's plan under section 419 of this act, the conservator may expend or distribute income or principal of the conservatorship estate without specific court authorization or confirmation for the support, care, education, health, or welfare of the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship, including the payment of child or spousal support, in accordance with the following rules:

(1) The conservator shall consider a recommendation relating to the appropriate standard of support, care, education, health, or welfare for the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship, made by a guardian for the individual subject to conservatorship, if any, and, if the individual subject to conservatorship is a minor, a recommendation made by a parent of the minor.

(2) The conservator acting in compliance with the conservator's duties under section 418 of this act is not liable for an expenditure or distribution made based on a recommendation under subsection (1) of this section unless the conservator knows the expenditure or distribution is not in the best interest of the individual subject to conservatorship.

(3) In making an expenditure or distribution under this section, the conservator shall consider:

(a) The size of the conservatorship estate, the estimated duration of the conservatorship, and the likelihood the individual subject to conservatorship, at some future time, may be fully self-sufficient and able to manage the individual's financial affairs and the conservatorship estate;

(b) The accustomed standard of living of the individual subject to conservatorship and individual who is dependent on the individual subject to conservatorship;

(c) Other funds or source used for the support of the individual subject to conservatorship; and

(d) The preferences, values, and prior directions of the individual subject to conservatorship.

(4) Funds expended or distributed under this section may be paid by the conservator to any person, including the individual subject to conservatorship, as reimbursement for expenditures the conservator might have made, or in advance for services to be provided to the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship if it is reasonable to expect the services will be performed and advance payment is customary or reasonably necessary under the circumstances.

NEW SECTION. Sec. 423. CONSERVATOR'S REPORT AND ACCOUNTING—MONITORING. (1) A conservator shall file with the court by the date established by the court a report in a record regarding the administration of the conservatorship estate unless the court otherwise directs, on resignation or removal, on termination of the conservatorship, and at any other time the court directs.

(2) A report under subsection (1) of this section must state or contain:

(a) An accounting that lists property included in the conservatorship estate and the receipts, disbursements, liabilities, and distributions during the period for which the report is made;

(b) A list of the services provided to the individual subject to conservatorship;

(c) A copy of the conservator's most recently approved plan and a statement whether the conservator has deviated from the plan and, if so, how the conservator has deviated and why;

(d) A recommendation as to the need for continued conservatorship and any recommended change in the scope of the conservatorship;

(e) To the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts, and mortgages or other debts of the individual subject to conservatorship with all but the last four digits of the account numbers and social security number redacted;

(f) Anything of more than de minimis value which the conservator, any individual who resides with the conservator, or the spouse, domestic partner, parent, child, or sibling of the conservator has received from a person providing goods or services to the individual subject to conservatorship;

(g) Any business relation the conservator has with a person the conservator has paid or that has benefited from the property of the individual subject to conservatorship; and

(h) Whether any co-conservator or successor conservator appointed to serve when a designated event occurs is alive and able to serve.

(3) The court may appoint a visitor to review a report under this section or conservator's plan under section 419 of this act, interview the individual subject to conservatorship or conservator, or investigate any other matter involving the conservatorship. In connection with the report, the court may order the conservator to submit the conservatorship estate to appropriate examination in a manner the court directs.

(4) Notice of the filing under this section of a conservator's report, together with a copy of the report, must be provided to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and other persons the court determines. The notice and report must be given not later than fourteen days after filing.

(5) The court shall establish procedures for monitoring a report submitted under this section and review each report at least annually to determine whether:

(a) The reports provide sufficient information to establish the conservator has complied with the conservator's duties;

(b) The conservatorship should continue; and

(c) The conservator's requested fees, if any, should be approved.

(6) If the court determines there is reason to believe a conservator has not complied with the conservator's duties or the conservatorship should not continue, the court:

(a) Shall notify the individual subject to conservatorship, the conservator, and any other person entitled to notice under section 411(6) of this act or a subsequent order;

(b) May require additional information from the conservator;

(c) May appoint a visitor to interview the individual subject to conservatorship or conservator or investigate any matter involving the conservatorship; and

(d) Consistent with sections 430 and 431 of this act, may hold a hearing to consider removal of the conservator, termination of the conservatorship, or a change in the powers granted to the conservator or terms of the conservatorship.

(7) If the court has reason to believe fees requested by a conservator are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

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(8) A conservator must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(9) An order, after notice and hearing, approving an interim report of a conservator filed under this section adjudicates liabilities concerning a matter adequately disclosed in the report, as to a person given notice of the report or accounting.

(10) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review at annual, biennial, or triennial intervals with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the conservator has been serving the person under conservatorship; whether the conservator has timely filed all required reports with the court; whether the conservator is monitored by other state or local agencies; the income of the person subject to conservatorship; the value of the property of the person subject to conservatorship; the adequacy of the bond and other verified receipt; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the conservator.

(11) If the court approves a report filed under this section, the order approving the report shall contain a conservatorship summary or accompanied by a conservatorship summary in the form or substantially in the same form as set forth in section 606 of this act.

(12) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in section 605 of this act to the conservator containing an expiration date which will be within one hundred twenty days after the date the court directs the conservator file its next report.

(13) An order, after notice and hearing, approving a final report filed under this section discharges the conservator from all liabilities, claims, and causes of action by a person given notice of the report and the hearing as to a matter adequately disclosed in the report.

(14) Any requirement to establish a monitoring program under this section is subject to appropriation.

NEW SECTION. Sec. 424. ATTEMPTED TRANSFER OF PROPERTY BY INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an individual subject to conservatorship in property included in the conservatorship estate is not transferable or assignable by the individual and is not subject to levy, garnishment, or similar process for claims against the individual unless allowed under section 428 of this act.

(2) If an individual subject to conservatorship enters into a contract after having the right to enter the contract removed by the court, the contract is void against the individual and the individual's property but is enforceable against the person that contracted with the individual.

(3) A person other than the conservator that deals with an individual subject to conservatorship with respect to property included in the conservatorship estate is entitled to protection provided by law of this state other than this chapter.

NEW SECTION. Sec. 425. TRANSACTION INVOLVING CONFLICT OF INTEREST. A transaction involving a conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary duties and

personal interests is voidable unless the transaction is authorized by court order after notice to persons entitled to notice under section 411(6) of this act or a subsequent order. A transaction affected by a substantial conflict includes a sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator, an individual with whom the conservator resides, the spouse, domestic partner, descendant, sibling, agent, or attorney of the conservator, or a corporation or other enterprise in which the conservator has a substantial beneficial interest.

NEW SECTION. Sec. 426. PROTECTION OF PERSON DEALING WITH CONSERVATOR. (1) A person that assists or deals with a conservator in good faith and for value in any transaction, other than a transaction requiring a court order under section 414 of this act, is protected as though the conservator properly exercised any power in question. Knowledge by a person that the person is dealing with a conservator alone does not require the person to inquire into the existence of authority of the conservator or the propriety of the conservator's exercise of authority, but restrictions on authority stated in letters of office, or otherwise provided by law, are effective as to the person. A person that pays or delivers property to a conservator is not responsible for proper application of the property.

(2) Protection under subsection (1) of this section extends to a procedural irregularity or jurisdictional defect in the proceeding leading to the issuance of letters of office and does not substitute for protection for a person that assists or deals with a conservator provided by comparable provisions in law of this state other than this chapter relating to a commercial transaction or simplifying a transfer of securities by a fiduciary.

NEW SECTION. Sec. 427. DEATH OF INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) If an individual subject to conservatorship dies, the conservator shall deliver to the court for safekeeping any will of the individual in the conservator's possession and inform the personal representative named in the will if feasible, or if not feasible, a beneficiary named in the will, of the delivery.

(2) If forty days after the death of an individual subject to conservatorship no personal representative has been appointed and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative to administer and distribute the decedent's estate. The conservator shall give notice of his or her appointment and the pendency of any probate proceedings as provided in RCW 11.28.237 and shall also give notice to a person nominated as personal representative by a will of the decedent of which the conservator is aware. The court may grant the application if there is no objection and endorse the letters of office to note that the individual formerly subject to conservatorship is deceased and the conservator has acquired the powers and duties of a personal representative.

(3) On the death of an individual subject to conservatorship, the conservator shall conclude the administration of the conservatorship estate as provided in section 431 of this act.

NEW SECTION. Sec. 428. PRESENTATION AND ALLOWANCE OF CLAIM. (1) A conservator may pay, or secure by encumbering property included in the conservatorship estate, a claim against the conservatorship estate or the individual subject to conservatorship arising before or during the conservatorship, on presentation and allowance in accordance with the priorities under subsection (4) of this section. A claimant may present a claim by:

(a) Sending or delivering to the conservator a statement in a record of the claim, indicating its basis, the name and address of the claimant, and the amount claimed; or

(b) Filing the claim with the court, in a form acceptable to the court, and sending or delivering a copy of the claim to the conservator.

(2) A claim under subsection (1) of this section is presented on receipt by the conservator of the statement of the claim or the filing with the court of the claim, whichever first occurs. A presented claim is allowed if it is not disallowed in whole or in part by the conservator in a record sent or delivered to the claimant not later than sixty days after its presentation. Before payment, the conservator may change an allowance of the claim to a disallowance in whole or in part, but not after allowance under a court order or order directing payment of the claim. Presentation of a claim tolls until thirty days after disallowance of the claim the running of a statute of limitations that has not expired relating to the claim.

(3) A claimant whose claim under subsection (1) of this section has not been paid may petition the court to determine the claim at any time before it is barred by a statute of limitations, and the court may order its allowance, payment, or security by encumbering property included in the conservatorship estate. If a proceeding is pending against the individual subject to conservatorship at the time of appointment of the conservator or is initiated thereafter, the moving party shall give the conservator notice of the proceeding if it could result in creating a claim against the conservatorship estate.

(4) If a conservatorship estate is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

- (a) Costs and expenses of administration;
 - (b) A claim of the federal or state government having priority under law other than this chapter;
 - (c) A claim incurred by the conservator for support, care, education, health, or welfare previously provided to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship;
 - (d) A claim arising before the conservatorship; and
 - (e) All other claims.
- (5) Preference may not be given in the payment of a claim under subsection (4) of this section over another claim of the same class. A claim due and payable may not be preferred over a claim not due unless:

- (a) Doing so would leave the conservatorship estate without sufficient funds to pay the basic living and health care expenses of the individual subject to conservatorship; and
 - (b) The court authorizes the preference under section 414(1)(h) of this act.
- (6) If assets of a conservatorship estate are adequate to meet all existing claims, the court, acting in the best interest of the individual subject to conservatorship, may order the conservator to grant a security interest in the conservatorship estate for payment of a claim at a future date.

NEW SECTION. Sec. 429. PERSONAL LIABILITY OF CONSERVATOR. (1) Except as otherwise agreed by a conservator, the conservator is not personally liable on a contract properly entered into in a fiduciary capacity in the course of administration of the conservatorship estate unless the conservator fails to reveal the conservator's representative capacity in the contract or before entering into the contract.

(2) A conservator is personally liable for an obligation arising from control of property of the conservatorship estate or an act or omission occurring in the course of administration of the conservatorship estate only if the conservator is personally at fault.

- (3) A claim based on a contract entered into by a conservator

in a fiduciary capacity, an obligation arising from control of property included in the conservatorship estate, or a tort committed in the course of administration of the conservatorship estate may be asserted against the conservatorship estate in a proceeding against the conservator in a fiduciary capacity, whether or not the conservator is personally liable for the claim.

(4) A question of liability between a conservatorship estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification or another appropriate proceeding or action.

NEW SECTION. Sec. 430. REMOVAL OF CONSERVATOR—APPOINTMENT OF SUCCESSOR. (1) The court may remove a conservator for failure to perform the conservator's duties or other good cause and appoint a successor conservator to assume the duties of the conservator.

(2) The court shall hold a hearing to determine whether to remove a conservator and appoint a successor on:

- (a) Petition of the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which contains allegations that, if true, would support a reasonable belief that removal of the conservator and appointment of a successor may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;
- (b) Communication from the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which supports a reasonable belief that removal of the conservator and appointment of a successor may be appropriate; or
- (c) Determination by the court that a hearing would be in the best interest of the individual subject to conservatorship.

(3) Notice of a hearing under subsection (2)(a) of this section and notice of the individual's right to be represented at the hearing by counsel of the individual's choosing must be given to the individual subject to conservatorship, the conservator, and any other person the court determines.

(4) An individual subject to conservatorship who seeks to remove the conservator and have a successor appointed has the right to choose an attorney to represent the individual in this matter. The court shall award reasonable attorneys' fees to the attorney as provided in section 120 of this act.

(5) In selecting a successor conservator, the court shall follow the priorities under section 410 of this act.

(6) Not later than fourteen days after appointing a successor conservator, the successor conservator shall give notice of the appointment to the individual subject to conservatorship and any person entitled to notice under section 411(6) of this act or a subsequent order.

NEW SECTION. Sec. 431. TERMINATION OR MODIFICATION OF CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the earliest of:

- (a) A court order terminating the conservatorship;
 - (b) The minor becoming an adult or, if the minor consents or the court finds by clear and convincing evidence that substantial harm to the minor's interests is otherwise likely, attaining twenty-one years of age;
 - (c) Emancipation of the minor; or
 - (d) Death of the minor.
- (2) A conservatorship for an adult terminates on order of the court or when the adult dies.
- (3) An individual subject to conservatorship, the conservator, or a person interested in the welfare of the individual may petition for:

- (a) Termination of the conservatorship on the ground that a

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basis for appointment under section 401 of this act does not exist or termination would be in the best interest of the individual or for other good cause; or

(b) Modification of the conservatorship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(4) The court shall hold a hearing to determine whether termination or modification of a conservatorship is appropriate on:

(a) Petition under subsection (3) of this section that contains allegations that, if true, would support a reasonable belief that termination or modification of the conservatorship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed within the preceding six months;

(b) A communication from the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which supports a reasonable belief that termination or modification of the conservatorship may be appropriate, including because the functional needs of the individual or supports or services available to the individual have changed;

(c) A report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs or supports or services available to the individual have changed or a protective arrangement instead of conservatorship or other less restrictive alternative is available; or

(d) A determination by the court that a hearing would be in the best interest of the individual.

(5) Notice of a petition under subsection (3) of this section must be given to the individual subject to conservatorship, the conservator, and any such other person the court determines.

(6) On presentation of prima facie evidence for termination of a conservatorship, the court shall order termination unless it is proven that a basis for appointment of a conservator under section 401 of this act exists.

(7) The court shall modify the powers granted to a conservator if the powers are excessive or inadequate due to a change in the abilities or limitations of the individual subject to conservatorship, the individual's supports, or other circumstances.

(8) Unless the court otherwise orders for good cause, before terminating a conservatorship, the court shall follow the same procedures to safeguard the rights of the individual subject to conservatorship which apply to a petition for conservatorship.

(9) An individual subject to conservatorship who seeks to terminate or modify the terms of the conservatorship has the right to choose an attorney to represent the individual in this matter. The court shall award reasonable attorneys' fees to the attorney as provided in section 120 of this act.

(10) On termination of a conservatorship other than by reason of the death of the individual subject to conservatorship, property of the conservatorship estate passes to the individual. The order of termination must direct the conservator to file a final report and petition for discharge on approval by the court of the final report.

(11) On termination of a conservatorship by reason of the death of the individual subject to conservatorship, the conservator shall file a final report and petition for discharge on approval by the court of the final report within ninety days of death of the person subject to conservatorship. On approval of the final report, the conservator shall proceed expeditiously to distribute the conservatorship estate to the individual's estate or as otherwise ordered by the court. The conservator may take reasonable measures necessary to preserve the conservatorship estate until distribution can be made.

(12) The court shall issue a final order of discharge on the

approval by the court of the final report and satisfaction by the conservator of any other condition the court imposed on the conservator's discharge.

NEW SECTION. Sec. 432. TRANSFER FOR BENEFIT OF MINOR WITHOUT APPOINTMENT OF CONSERVATOR. (1) Unless a person required to transfer funds or other property to a minor knows that a conservator for the minor has been appointed or a proceeding is pending for conservatorship, the person may transfer an amount or value not exceeding fifteen thousand dollars in a twelve-month period to:

(a) A person that has care or custody of the minor and with whom the minor resides;

(b) A guardian for the minor;

(c) A custodian under the uniform transfers to minors act (chapter 11.114 RCW); or

(d) A financial institution as a deposit in an interest-bearing account or certificate solely in the name of the minor and shall give notice to the minor of the deposit.

(2) A person that transfers funds or other property under this section is not responsible for its proper application.

(3) A person that receives funds or other property for a minor under subsection (1)(a) or (b) of this section may apply it only to the support, care, education, health, or welfare of the minor, and may not derive a personal financial benefit from it, except for reimbursement for necessary expenses. Funds not applied for these purposes must be preserved for the future support, care, education, health, or welfare of the minor, and the balance, if any, transferred to the minor when the minor becomes an adult or otherwise is emancipated.

ARTICLE 5

OTHER PROTECTIVE ARRANGEMENTS

NEW SECTION. Sec. 501. AUTHORITY FOR PROTECTIVE ARRANGEMENT. (1) Under this article, a court:

(a) On receiving a petition for a guardianship for an adult may order a protective arrangement instead of guardianship as a less restrictive alternative to guardianship; and

(b) On receiving a petition for a conservatorship for an individual may order a protective arrangement instead of conservatorship as a less restrictive alternative to conservatorship.

(2) A person interested in an adult's welfare, including the adult or a conservator for the adult, may petition under this article for a protective arrangement instead of guardianship.

(3) The following persons may petition under this article for a protective arrangement instead of conservatorship:

(a) The individual for whom the protective arrangement is sought;

(b) A person interested in the property, financial affairs, or welfare of the individual, including a person that would be affected adversely by lack of effective management of property or financial affairs of the individual; and

(c) The guardian for the individual.

NEW SECTION. Sec. 502. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under section 302 of this act for a guardianship or under section 501(2) of this act for a protective arrangement instead of guardianship, the court may issue an order under subsection (2) of this section for a protective arrangement instead of guardianship if the court finds by clear and convincing evidence that:

(a) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make

or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(b) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) If the court makes the findings under subsection (1) of this section, the court, instead of appointing a guardian, may:

(a) Authorize or direct a transaction necessary to meet the respondent's need for health, safety, or care, including:

(i) A particular medical treatment or refusal of a particular medical treatment;

(ii) A move to a specified place of dwelling; or

(iii) Visitation or supervised visitation between the respondent and another person;

(b) Restrict access to the respondent by a specified person whose access places the respondent at serious risk of physical, psychological, or financial harm; and

(c) Reorder other arrangements on a limited basis that are appropriate.

(3) In deciding whether to issue an order under this section, the court shall consider the factors under sections 314 and 315 of this act that a guardian must consider when making a decision on behalf of an adult subject to guardianship.

NEW SECTION. Sec. 503. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a petition under section 402 of this act for conservatorship for an adult or under section 501(3) of this act for a protective arrangement instead of a conservatorship for an adult, the court may issue an order under subsection (3) of this section for a protective arrangement instead of conservatorship for the adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the ability to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) An order under subsection (3) of this section is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) After the hearing on a petition under section 402 of this act for conservatorship for a minor or under section 501(3) of this act for a protective arrangement instead of conservatorship for a minor, the court may issue an order under subsection (3) of this section for a protective arrangement instead of conservatorship for the respondent if the court finds by a preponderance of the evidence that the arrangement is in the minor's best interest, and:

(a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an arrangement is in the minor's best interest;

(b) Either:

(i) The minor owns money or property requiring management or protection that otherwise cannot be provided;

(ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(iii) The arrangement is necessary or desirable to obtain or

provide funds or other property needed for the support, care, education, health, or welfare of the minor; and

(iv) The order under subsection (3) of this section is necessary or desirable to obtain or provide money needed for the support, care, education, health, or welfare of the minor.

(3) If the court makes the findings under subsection (1) or (2) of this section, the court, instead of appointing a conservator, may:

(a) Authorize or direct a transaction necessary to protect the financial interest or property of the respondent, including:

(i) An action to establish eligibility for benefits;

(ii) Payment, delivery, deposit, or retention of funds or property;

(iii) Sale, mortgage, lease, or other transfer of property;

(iv) Purchase of an annuity;

(v) Entry into a contractual relationship, including a contract to provide for personal care, supportive services, education, training, or employment;

(vi) Addition to or establishment of a trust;

(vii) Ratification or invalidation of a contract, trust, will, or other transaction, including a transaction related to the property or business affairs of the respondent; or

(viii) Settlement of a claim; or

(b) Restrict access to the respondent's property by a specified person whose access to the property places the respondent at serious risk of financial harm.

(4) After the hearing on a petition under section 501 (1)(b) or (3) of this act, whether or not the court makes the findings under subsection (1) or (2) of this section, the court may issue an order to restrict access to the respondent or the respondent's property by a specified person that the court finds by clear and convincing evidence:

(a) Through fraud, coercion, duress, or the use of deception and control caused or attempted to cause an action that would have resulted in financial harm to the respondent or the respondent's property; and

(b) Poses a serious risk of substantial financial harm to the respondent or the respondent's property.

(5) Before issuing an order under subsection (3) or (4) of this section, the court shall consider the factors under section 418 of this act a conservator must consider when making a decision on behalf of an individual subject to conservatorship.

(6) Before issuing an order under subsection (3) or (4) of this section for a respondent who is a minor, the court also shall consider the best interest of the minor, the preference of the parents of the minor, and the preference of the minor, if the minor is twelve years of age or older.

NEW SECTION. Sec. 504. PETITION FOR PROTECTIVE ARRANGEMENT. A petition for a protective arrangement instead of guardianship or conservatorship must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the protective arrangement, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

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

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

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

(b) Adult children or, if none, each parent and adult sibling of

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the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

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

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

(a) A person responsible for the care or custody of the respondent;

(b) Any attorney currently representing the respondent;

(c) The representative payee appointed by the social security administration for the respondent;

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

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

(f) The fiduciary appointed for the respondent by the department of veterans affairs;

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

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

(i) A person nominated as guardian or conservator by the respondent if the respondent is twelve years of age or older;

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

(k) A person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition; and

(l) If the respondent is a minor:

(i) An adult not otherwise listed with whom the respondent resides; and

(ii) Each person not otherwise listed that had primary care or custody of the respondent for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(4) The nature of the protective arrangement sought;

(5) The reason the protective arrangement sought is necessary, including a brief description of:

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

(b) Any less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(c) If no less restrictive alternative has been considered or implemented, the reason less restrictive alternatives have not been considered or implemented; and

(d) The reason other less restrictive alternatives are insufficient to meet the respondent's alleged need;

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

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

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

(9) If a protective arrangement instead of conservatorship is sought, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts.

NEW SECTION. Sec. 505. NOTICE AND HEARING.

(1) All petitions filed under section 504 of this act for appointment of a guardian for an adult shall be heard within sixty days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown.

(2) A copy of a petition under section 501 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 506 of this act not more than five court days after the petition under section 504 of this act has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 501 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 504 (1) through (3) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from granting the petition.

(4) After the court has ordered a protective arrangement under this article, notice of a hearing on a petition filed under this chapter, together with a copy of the petition, must be given to the respondent and any other person the court determines.

NEW SECTION. Sec. 506. APPOINTMENT AND ROLE OF VISITOR. (1) On filing of a petition under section 501 of this act for a protective arrangement instead of guardianship, the court shall appoint a visitor. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) On filing of a petition under section 501 of this act for a protective arrangement instead of conservatorship for a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(3) On filing of a petition under section 501 of this act or a protective arrangement instead of conservatorship for an adult, the court shall appoint a visitor unless the respondent is represented by an attorney appointed by the court. The visitor must be an individual with training or experience in the types of abilities, limitations, and needs alleged in the petition.

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

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

(i) Lack of expertise necessary for the proceeding;

(ii) An hourly rate higher than what is reasonable for the particular proceeding; or

(iii) A conflict of interest.

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

(6) A visitor appointed under subsection (1) or (3) of this section shall interview the respondent in person and in a manner the respondent is best able to understand:

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

(b) Determine the respondent's views with respect to the order sought;

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

(d) If the petitioner seeks an order related to the dwelling of the respondent, visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the order is granted;

(e) If a protective arrangement instead of guardianship is sought, obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition;

(f) If a protective arrangement instead of conservatorship is sought, review financial records of the respondent, if relevant to the visitor's recommendation under subsection (7)(b) of this section; and

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

(7) A visitor under this section promptly shall file a report in a record with the court, which must include:

(a) To the extent relevant to the order sought, a summary of self-care, independent living tasks, and financial management tasks the respondent:

(i) Can manage without assistance or with existing supports;

(ii) Could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making; and

(iii) Cannot manage;

(b) A recommendation regarding the appropriateness of the protective arrangement sought and whether a less restrictive alternative for meeting the respondent's needs is available;

(c) If the petition seeks to change the physical location of the dwelling of the respondent, a statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to the respondent's dwelling;

(d) A recommendation whether a professional evaluation under section 508 of this act is necessary;

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

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

(g) Any other matter the court directs.

NEW SECTION. Sec. 507. APPOINTMENT AND ROLE OF ATTORNEY. (1) Unless the respondent in a proceeding under this article is represented by an attorney, the court is not

required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay.

(2) An attorney representing the respondent in a proceeding under this article shall:

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

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

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

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under this article if:

(a) The parent objects to the entry of an order for a protective arrangement instead of guardianship or conservatorship;

(b) The court determines that counsel is needed to ensure that consent to the entry of an order for a protective arrangement is informed; or

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

NEW SECTION. Sec. 508. PROFESSIONAL EVALUATION. (1) At or before a hearing on a petition under this article for a protective arrangement, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

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

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a licensed physician, psychologist, social worker, or other individual appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:

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

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

(c) A prognosis for improvement, including with regard to the ability to manage the respondent's property and financial affairs if a limitation in that ability is alleged, and recommendation for the appropriate treatment, support, or habilitation plan; and

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

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

NEW SECTION. Sec. 509. ATTENDANCE AND RIGHTS AT HEARING. (1) Except as otherwise provided in subsection (2) of this section, a hearing under this article may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

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

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

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

(c) The respondent is a minor who has received proper notice and attendance would be harmful to the minor.

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

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under this article.

(5) At a hearing under this article, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

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

(c) Otherwise participate in the hearing.

(6) A hearing under this article must be closed on request of the respondent and a showing of good cause.

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

NEW SECTION. Sec. 510. NOTICE OF ORDER. The court shall give notice of an order under this article to the individual who is subject to the protective arrangement instead of guardianship or conservatorship, a person whose access to the individual is restricted by the order, and any other person the court determines.

NEW SECTION. Sec. 511. CONFIDENTIALITY OF RECORDS. (1) The existence of a proceeding for or the existence of a protective arrangement instead of guardianship or conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to the protective arrangement, or the parent of a minor subject to the protective arrangement requests the record be sealed; and

(b) Either:

(i) The proceeding is dismissed;

(ii) The protective arrangement is no longer in effect; or

(iii) An act authorized by the order granting the protective arrangement has been completed.

(2) A respondent, an individual subject to a protective arrangement instead of guardianship or conservatorship, an attorney designated by the respondent or individual, a parent of a minor subject to a protective arrangement, and any other person the court determines are entitled to access court records of the proceeding and resulting protective arrangement. A person not otherwise entitled access to court records under this subsection for good cause may petition the court for access. The court shall grant access if access is in the best interest of the respondent or individual subject to the protective arrangement or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report of a visitor or professional evaluation generated in the course of a proceeding under this article must be sealed on filing but is available to:

(a) The court;

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

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

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

(e) If the order is for a protective arrangement instead of guardianship and unless the court orders otherwise, an agent appointed under a power of attorney for health care in which the respondent is identified as the principal; and

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

NEW SECTION. Sec. 512. APPOINTMENT OF SPECIAL AGENT. The court may appoint a special agent, to assist in implementing a protective arrangement under this article. The special agent has the authority conferred by the order of appointment and serves until discharged by court order.

**ARTICLE 6
FORMS**

NEW SECTION. Sec. 601. USE OF FORMS. Unless otherwise provided in this chapter, use of the forms contained in this article is optional. Failure to use these forms does not prejudice any party.

NEW SECTION. Sec. 602. PETITION FOR GUARDIANSHIP FOR MINOR. This form may be used to petition for guardianship for a minor.

Petition for Guardianship for Minor

State of:

County of:

Name and address of attorney representing petitioner, if applicable:.....

.....

Note to petitioner: This form can be used to petition for a guardian for a minor. A court may appoint a guardian if the court finds the appointment is in the minor's best interest, and: The parents, after being fully informed of the nature and consequences of guardianship, consent; all parental rights have been terminated; or the court finds by clear and convincing evidence that the parents are unwilling or unable to exercise their parental rights.

(1) Information about the person filing this petition (the petitioner.)

(a) Name:

(b) Principal residence:

(c) Current street address (if different):.....

(d) Relationship to minor:.....

(e) Interest in this petition:.....

(f) Telephone number (optional):.....

(g) Email address (optional):.....

(2) Information about the minor alleged to need a guardian. Provide the following information to the extent known.

(a) Name:

(b) Age:.....

(c) Principal residence:

(d) Current street address (if different):

(e) If petitioner anticipates the minor moving, or seeks to move the minor, proposed new address:

(f) Does the minor need an interpreter, translator, or other form of support to communicate with the court or understand

court proceedings? If so, please explain:

(g) Telephone number (optional):

(h) Email address (optional):

(3) Information about the minor's parent(s).

(a) Name(s) of living parent(s):

(b) Current street address(es) of living parent(s):

(c) Does any parent need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain:

.....

.....

(4) People who are required to be notified of this petition.

State the name and current address of the people listed in Appendix A.

.....

.....

(5) Appointment requested. State the name and address of any proposed guardian and the reason the proposed guardian should be selected.

.....

.....

(6) State why petitioner seeks the appointment. Include a description of the nature and extent of the minor's alleged need.

.....

.....

(7) Property. If the minor has property other than personal effects, state the minor's property with an estimate of its value.

.....

.....

(8) Other proceedings. If there are any other proceedings concerning the care or custody of the minor currently pending in any court in this state or another jurisdiction, please describe them.

.....

.....

(9) Attorney(s). If the minor or the minor's parent is represented by an attorney in this matter, state the name, telephone number, email address, and address of the attorney(s).

.....

.....

SIGNATURE

.....

Signature of Petitioner Date

.....

Signature of Petitioner's Attorney if Date

Petitioner is Represented by Counsel

APPENDIX A:

People whose name and address must be listed in subsection (4) of this petition if they are not the petitioner:

The minor, if the minor is twelve years of age or older;

Each parent of the minor or, if there are none, the adult nearest in kinship that can be found;

An adult with whom the minor resides;

Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

If the minor is twelve years of age or older, any person nominated as guardian by the minor;

Any person nominated as guardian by a parent of the

minor;

The grandparents of the minor;

Adult siblings of the minor; and

Any current guardian or conservator for the minor appointed in this state or another jurisdiction.

NEW SECTION. Sec. 603. PETITION FOR GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to petition for:

Guardianship for an adult;

Conservatorship for an adult or minor;

A protective arrangement instead of guardianship for an adult; or

A protective arrangement instead of conservatorship for an adult or minor.

Petition for Guardianship, Conservatorship, or Protective Arrangement

State of:.....

County of:.....

Name and address of attorney representing petitioner, if applicable:.....

.....

.....

Note to petitioner: This form can be used to petition for a guardian, conservator, or both, or for a protective arrangement instead of either a guardianship or conservatorship. This form should not be used to petition for guardianship for a minor.

The court may appoint a guardian or order a protective arrangement instead of guardianship for an adult if the adult lacks the ability to meet essential requirements for physical health, safety, or self-care because (1) the adult is unable to receive and evaluate information or make or communicate decisions even with the use of supportive services, technological assistance, and supported decision making, and (2) the adult's identified needs cannot be met by a less restrictive alternative.

The court may appoint a conservator or order a protective arrangement instead of conservatorship for an adult if (1) the adult is unable to manage property and financial affairs because of a limitation in the ability to receive and evaluate information or make or communicate decisions even with the use of supportive services, technological assistance, and supported decision making or the adult is missing, detained, or unable to return to the United States, and (2) appointment is necessary to avoid harm to the adult or significant dissipation of the property of the adult, or to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult, or of an individual who is entitled to the adult's support, and protection is necessary or desirable to provide funds or other property for that purpose.

The court may appoint a conservator or order a protective arrangement instead of conservatorship for a minor if: (1) The minor owns funds or other property requiring management or protection that cannot otherwise be provided; or (2) it would be in the minor's best interests, and the minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age, or appointment is necessary or desirable to provide funds or other property needed for the support, care, education, health, or welfare of the minor.

The court may also order a protective arrangement instead of conservatorship that restricts access to an individual or an individual's property by a person that the court finds: (1) Through fraud, coercion, duress, or the use of deception and

control, caused, or attempted to cause, an action that would have resulted in financial harm to the individual or the individual's property; and (2) poses a serious risk of substantial financial harm to the individual or the individual's property.

(1) Information about the person filing this petition (the petitioner.)

- (a) Name:.....
- (b) Principal residence:.....
- (c) Current street address (if different):
- (d) Relationship to respondent:
- (e) Interest in this petition:
- (f) Telephone number (optional):
- (g) Email address (optional):.....

(2) Information about the individual alleged to need protection (the "respondent"). Provide the following information to the extent known.

- (a) Name:.....
- (b) Age:
- (c) Principal residence:.....
- (d) Current street address (if different):.....
- (e) If petitioner anticipates respondent moving, or seeks to move respondent, proposed new address:.....
- (f) Does respondent need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain:.....
- (g) Telephone number (optional):.....
- (h) Email address (optional):.....

(3) People who are required to be notified of this petition. State the name and address of the people listed in Appendix A.

.....

(4) Existing agents. State the name and address of any person appointed as an agent under a power of attorney for finances or power of attorney for health care, or who has been appointed as the individual's representative for payment of benefits.

.....

(5) Action requested. State whether petitioner is seeking appointment of a guardian, a conservator, or a protective arrangement instead of an appointment.

.....

(6) Order requested or appointment requested. If seeking a protective arrangement instead of a guardianship or conservatorship, state the transaction or other action you want the court to order. If seeking appointment of a guardian or conservator, state the powers petitioner requests the court grant to a guardian or conservator.

.....

(7) State why the appointment or protective arrangement sought is necessary. Include a description of the nature and extent of respondent's alleged need.

.....

(8) State all less restrictive alternatives to meeting respondent's alleged need that have been considered or implemented. Less restrictive alternatives could include supported decision making, technological assistance, or the appointment of an agent by respondent including appointment under a power of attorney for health care or

power of attorney for finances. If no alternative has been considered or implemented, state the reason why not.

.....

(9) Explain why less restrictive alternatives will not meet respondent's alleged need.

.....

(10) Provide a general statement of respondent's property and an estimate of its value. Include any real property such as a house or land, insurance or pension, and the source and amount of any other anticipated income or receipts. As part of this statement, indicate, if known, how the property is titled (for example, is it jointly owned?).

.....

(11) For a petition seeking appointment of a conservator. (Skip this section if not asking for appointment of a conservator.)

(a) If seeking appointment of a conservator with all powers permissible under this state's law, explain why appointment of a conservator with fewer powers (i.e., a "limited conservatorship") or other protective arrangement instead of conservatorship will not meet the individual's alleged needs.

.....

(b) If seeking a limited conservatorship, state the property petitioner requests be placed under the conservator's control and any proposed limitation on the conservator's powers and duties.

.....

(c) State the name and address of any proposed conservator and the reason the proposed conservator should be selected.

.....

(d) If respondent is twelve years of age or older, state the name and address of any person respondent nominates as conservator.

.....

(e) If alleging a limitation in respondent's ability to receive and evaluate information, provide a brief description of the nature and extent of respondent's alleged limitation.

.....

(f) If alleging that respondent is missing, detained, or unable to return to the United States, state the relevant circumstances, including the time and nature of the disappearance or detention and a description of any search or inquiry concerning respondent's whereabouts.

.....

(12) For a petition seeking appointment of a guardian. (Skip this section if not asking for appointment of a guardian.)

(a) If seeking appointment of a guardian with all powers permissible under this state's law, explain why appointment of a guardian with fewer powers (i.e., a "limited guardianship") or other protective arrangement instead of guardianship will not meet the individual's alleged needs.

.....

(b) If seeking a limited guardianship, state the powers petitioner requests be granted to the guardian.

.....

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NEW SECTION. Sec. 605. LETTERS OF OFFICE. All letters of guardianship/conservatorship must be in the following form or a substantially similar form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF

IN THE MATTER OF THE Cause No. GUARDIANSHIP/ CONSERVATORSHIP OF

LETTERS OF GUARDIANSHIP/CONSERVATORSHIP

Date letters expire

THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE FOLLOWING:

On the day of, (year) the Court appointedto serve as:

- Guardian of the Person Full Limited
Conservator of the Estate Full Limited

for, in the above referenced matter.

The Guardian/Conservator has fulfilled all legal requirements to serve including, but not limited to: Taking and filing the oath; filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's order; and appointing a resident agent for a nonresident guardian.

The Court, having found the Guardian/Conservator duly qualified, now makes it known is authorized as the Guardian for designated in the Court's order as referenced above.

The next filing and reporting deadline in this matter is on the . . . day of,

THESE LETTERS ARE NO LONGER VALID ON

These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

This matter is before the Honorable of Superior Court, the seal of the Court being affixed this day of

State of Washington)

) ss.

County of

I,, Clerk of the Superior Court of said County and State, certify that this document represents true and correct Letters of Guardianship/Conservatorship in the above entitled case, entered upon the record on this day of

These letters remain in full force and effect until the date of expiration set forth above.

The seal of Superior Court has been affixed and witnessed by my hand this day of,

....., Clerk of Superior Court

By, Deputy

..... (Signature of Deputy)

NEW SECTION. Sec. 606. GUARDIANSHIP/CONSERVATORSHIP SUMMARY. The guardianship/conservatorship summary shall be in or substantially similar form:

GUARDIANSHIP/CONSERVATORSHIP SUMMARY

- Date Guardian/Conservator Appointed:
Due Date for Report and Accounting:
Date of Next Review:
Letters Expire On:
Bond Amount: \$
Restricted Account Agreements Required:
Due Date for Inventory, if applicable:
Due Date for Guardian's Plan, if applicable:

Table with 2 columns: Person subject to guardianship/conservatorship, Guardian/Conservator. Rows include Name, Address, Phone, Facsimile.

Table with 3 columns: Interested Parties, Address, Relation. Multiple empty rows for data entry.

ARTICLE 7 CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD OF RESOLUTION GRIEVANCES

NEW SECTION. Sec. 701 CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD RESOLUTION OF GRIEVANCES. (1) The certified professional guardianship board must resolve grievances against professional guardians and/or conservators within a reasonable time for alleged violations of the certified professional guardianship board's standards of practice.

(a) All grievances must initially be reviewed within thirty days by certified professional guardianship board members, or a subset

thereof, to determine if the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, before any investigation or response is requested from the professional guardian or the superior court. Grievances must provide the dates of the alleged violations and must be signed and dated by the person filing the grievance. Grievance investigations by the board are limited to the allegations contained in the grievance unless, after review by a majority of the members of the certified professional guardianship board, further investigation is justified.

(b) If the certified professional guardianship board determines the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, the certified professional guardianship board must forward that grievance within ten days to the superior court for that guardianship or conservatorship and to the professional guardian and/or conservator. The court must review the matter as set forth in section 128 of this act, and must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board. The certified professional guardianship board must act consistently with any finding of fact issued in that order.

(2) Grievances received by the certified professional guardianship board must be resolved within one hundred eighty days of receipt.

(3) If the grievance cannot be resolved within one hundred eighty days, the certified professional guardianship board must notify the professional guardian and/or conservator. The professional guardian or conservator may propose a resolution of the grievance with facts and/or arguments. The certified professional guardianship board may accept the proposed resolution or determine that an additional ninety days are needed to review the grievance. If the certified professional guardianship board has not resolved the grievance within the additional ninety days the professional guardian or conservator may:

(a) File a motion for a court order to compel the certified professional guardianship board to resolve the grievance within a reasonable time; or

(b) Move for the court to resolve the grievance instead of being resolved by the certified professional guardianship board.

(4) The court has authority to enforce the certified professional guardianship board's standards of practice in this article to the extent those standards are related to statutory or fiduciary duties of guardians and conservators.

(5) Any unresolved grievances filed with the certified professional guardianship board at the time of the effective date of this section must be forwarded to the superior court for that guardianship or conservatorship for review by the court as set forth in section 128 of this act.

ARTICLE 8 MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 801 REPEALS. The following acts or parts of acts are each repealed:

(1)RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

(2)RCW 11.88.008 ("Professional guardian" defined) and 1997 c 312 s 2;

(3)RCW 11.88.010 (Authority to appoint guardians—Definitions—Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802, 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

(4)RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c

312 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c 145 s 11.88.020;

(5)RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2, 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965 c 145 s 11.88.030;

(6)RCW 11.88.040 (Notice and hearing, when required—Service—Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

(7)RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, & 1975 1st ex.s. c 95 s 7;

(8)RCW 11.88.080 (Guardians nominated by will or durable power of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, & 1965 c 145 s 11.88.080;

(9)RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—Qualifications—Notice of and statement by guardian ad litem—Hearing and notice—Attorneys' fees and costs—Registry—Duties—Report—Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1, 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

(10)RCW 11.88.093 (Ex parte communications—Removal) and 2000 c 124 s 10;

(11)RCW 11.88.095 (Disposition of guardianship petition) and 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

(12)RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

(13)RCW 11.88.100 (Oath and bond of guardian or limited guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

(14)RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

(15)RCW 11.88.107 (When bond not required) and 1990 c 122 s 12, 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s 11.88.107;

(16)RCW 11.88.110 (Law on executors' and administrators' bonds applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

(17)RCW 11.88.120 (Modification or termination of guardianship—Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c 145 s 11.88.120;

(18)RCW 11.88.125 (Standby limited guardian or limited guardian) and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8, 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st ex.s. c 95 s 6;

(19)RCW 11.88.127 (Guardianship—Incapacitated person—Letters of guardianship) and 2011 c 329 s 6;

(20)RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

(21)RCW 11.88.140 (Termination of guardianship or limited guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9, 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, & 1965 c 145 s 11.88.140;

(22)RCW 11.88.150 (Administration of deceased incapacitated person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

(23)RCW 11.88.160 (Guardianships involving veterans) and 1990 c 122 s 13;

(24)RCW 11.88.170 (Guardianship courthouse facilitator program) and 2015 c 295 s 1;

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(25)RCW 11.88.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

(26)RCW 11.92.010 (Guardians or limited guardians under court control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, & 1965 c 145 s 11.92.010;

(27)RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c 95 s 19, & 1965 c 145 s 11.92.035;

(28)RCW 11.92.040 (Duties of guardian or limited guardian in general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985 c 30 s 9;

(29)RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

(30)RCW 11.92.050 (Intermediate accounts or reports—Hearing—Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

(31)RCW 11.92.053 (Settlement of estate upon termination) and 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s 11.92.053;

(32)RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

(33)RCW 11.92.060 (Guardian to represent incapacitated person—Compromise of claims—Service of process) and 1990 c 122 s 26, 1975 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

(34)RCW 11.92.090 (Sale, exchange, lease, or mortgage of property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145 s 11.92.090;

(35)RCW 11.92.096 (Guardian access to certain held assets) and 1991 c 289 s 13;

(36)RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

(37)RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29, 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

(38)RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s 11.92.115;

(39)RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c 95 s 28 & 1965 c 145 s 11.92.120;

(40)RCW 11.92.125 (Broker's fee and closing expenses—Sale, exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s 15 & 1965 c 145 s 11.92.125;

(41)RCW 11.92.130 (Performance of contracts) and 1990 c 122 s 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

(42)RCW 11.92.140 (Court authorization for actions regarding guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s 32, 1990 c 122 s 32, & 1985 c 30 s 10;

(43)RCW 11.92.150 (Request for special notice of proceedings) and 1990 c 122 s 33 & 1985 c 30 s 11;

(44)RCW 11.92.160 (Citation for failure to file account or report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s 11.92.160;

(45)RCW 11.92.170 (Removal of property of nonresident incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16, 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

(46)RCW 11.92.180 (Compensation and expenses of guardian or limited guardian—Attorney's fees—Department of social and health services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33, & 1965 c 145 s 11.92.180;

(47)RCW 11.92.185 (Concealed or embezzled property) and 1990 c 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

(48)RCW 11.92.190 (Detention of person in residential placement facility against will prohibited—Effect of court order—Service of notice of residential placement) and 2016 sp.s.

c 29 s 412, 1996 c 249 s 11, & 1977 ex.s. c 309 s 14;

(49)RCW 11.92.195 (Incapacitated persons—Right to associate with persons of their choosing) and 2017 c 268 s 1;

(50)RCW 26.10.010 (Intent) and 1987 c 460 s 25;

(51)RCW 26.10.015 (Mandatory use of approved forms) and 1992 c 229 s 4 & 1990 1st ex.s. c 2 s 27;

(52)RCW 26.10.020 (Civil practice to govern—Designation of proceedings—Decrees) and 1987 c 460 s 26;

(53)RCW 26.10.030 (Child custody proceeding—Commencement—Notice—Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, & 1987 c 460 s 27;

(54)RCW 26.10.032 (Child custody motion—Affidavit required—Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

(55)RCW 26.10.034 (Petitions—Indian child statement—Application of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s 1, & 2003 c 105 s 7;

(56)RCW 26.10.040 (Provisions for child support, custody, and visitation—Federal tax exemption—Continuing restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order) and 2000 c 119 s 8, 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s 28;

(57)RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

(58)RCW 26.10.050 (Child support by parents—Apportionment of expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

(59)RCW 26.10.060 (Health insurance coverage—Conditions) and 1989 c 375 s 19 & 1987 c 460 s 30;

(60)RCW 26.10.070 (Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements) and 1989 c 375 s 20 & 1987 c 460 s 31;

(61)RCW 26.10.080 (Payment of costs, attorney's fees, etc) and 1987 c 460 s 35;

(62)RCW 26.10.090 (Failure to comply with decree or temporary injunction—Obligation to make support payments or permit visitation not suspended—Motion) and 1987 c 460 s 36;

(63)RCW 26.10.100 (Determination of custody—Child's best interests) and 1987 c 460 s 38;

(64)RCW 26.10.110 (Temporary custody order—Vacation of order) and 1987 c 460 s 39;

(65)RCW 26.10.115 (Temporary orders—Support—Restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order—Preservation of support debt) and 2000 c 119 s 9, 1995 c 246 s 29, 1994 sp.s. c 7 s 454, & 1989 c 375 s 32;

(66)RCW 26.10.120 (Interview with child by court—Advice of professional personnel) and 1987 c 460 s 40;

(67)RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2 & 1987 c 460 s 41;

(68)RCW 26.10.135 (Custody orders—Background information to be consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

(69)RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and 1987 c 460 s 42;

(70)RCW 26.10.150 (Access to child's education and medical records) and 1987 c 460 s 43;

(71)RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2, 1989 c 326 s 2, & 1987 c 460 s 44;

(72)RCW 26.10.170 (Powers and duties of custodian—Supervision by appropriate agency when necessary) and 1987 c 460 s 45;

(73)RCW 26.10.180 (Remedies when a child is taken, enticed,

or concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

(74)RCW 26.10.190 (Petitions for modification and proceedings concerning relocation of child—Assessment of attorneys' fees) and 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

(75)RCW 26.10.200 (Temporary custody order or modification of custody decree—Affidavits required) and 1987 c 460 s 48;

(76)RCW 26.10.210 (Venue) and 1987 c 460 s 49;

(77)RCW 26.10.220 (Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s 50; and

(78)RCW 26.10.910 (Short title—1987 c 460).

NEW SECTION. Sec. 802. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 803. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. Sec. 804. APPLICABILITY. This chapter applies to:

(1) A proceeding for appointment of a guardian or conservator or for a protective arrangement instead of guardianship or conservatorship commenced after the effective date of this section; and

(2) A guardianship, conservatorship, or protective arrangement instead of a guardianship or conservatorship in existence on the effective date of this section unless the court finds application of a particular provision of this act would substantially interfere with the effective conduct of the proceeding or prejudice the rights of a party, in which case the particular provision of this act does not apply and the superseded law applies.

NEW SECTION. Sec. 805. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 806. Articles I through VII and sections 802 through 804 and 807 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. Sec. 807. EFFECTIVE DATE. This act takes effect January 1, 2021."

Correct the title.
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5604 and ask the House to recede therefrom.

Senators Pedersen and Padden spoke in favor of the motion.

The President declared the question before the Senate to be the

motion by Senator Pedersen that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5604 and ask the House to recede therefrom.

The motion by Senator Pedersen carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5604 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 15, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5640 with the following amendment(s): 5640 AMH VOLZ CLYN 300

On page 1, at the beginning of line 21, strike "to" and insert "through"

On page 2, line 7, after "twelve" strike "to" and insert "through"

On page 2, line 18, after "RCW 9.91.025;" insert "and"

On page 2, at the beginning of line 19, strike all material through "(c)" on line 22 and insert "~~((c))~~ May not have any convictions for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025; and ~~(d))~~ (b)"

On page 6, line 12, after "twelve" strike "to" and insert "through" and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Holy moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5640 and ask the House to recede therefrom.

Senator Holy spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Holy that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5640 and ask the House to recede therefrom.

The motion by Senator Holy carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5640 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 15, 2019

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5444 with the following amendment(s): 5444-S2.E AMH ENGR H2884.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that there has been a nationwide increase in the number of individuals with behavioral health disorders in the criminal justice system. The legislature also recognizes that reforms must be made to our own behavioral health systems and services to meet the increasing demands in our state, to provide timely competency evaluations and restoration services, and to comply with federal court orders issued in *A.B., by and through Trueblood, et al., v. DSHS, et al.*, No. 15-35462 ("Trueblood"). The legislature acknowledges that

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these reforms will require the support of a broad range of stakeholders, including local law enforcement, prosecuting attorneys, defense attorneys, community members, and health care providers. The legislature further acknowledges the significant efforts of the parties to the Trueblood litigation to establish a roadmap and framework within their settlement agreement for proposed systemic reforms to the forensic mental health care system. It is the intent of the legislature to enact appropriate reforms consistent with the goals agreed to in the Trueblood settlement agreement, to continue to engage with stakeholders and community partners to address the needs of this vulnerable population, and to ensure that the public safety needs of our communities are met.

NEW SECTION. Sec. 2. A new section is added to chapter 10.77 RCW to read as follows:

(1) Subject to the limitations described in this section, a court may appoint an impartial forensic navigator employed by or contracted by the department to assist individuals who have been referred for competency evaluation.

(2) A forensic navigator must assist the individual to access services related to diversion and community outpatient competency restoration. The forensic navigator must assist the individual, prosecuting attorney, defense attorney, and the court to understand the options available to the individual and be accountable as an officer of the court for faithful execution of the responsibilities outlined in this section.

(3) The duties of the forensic navigator include, but are not limited to, the following:

(a) To collect relevant information about the individual, including behavioral health services and supports available to the individual that might support placement in outpatient restoration, diversion, or some combination of these;

(b) To meet with, interview, and observe the individual;

(c) To present information to the court in order to assist the court in understanding the treatment options available to the individual to support the entry of orders for diversion from the forensic mental health system or for community outpatient competency restoration, and to facilitate that transition; and

(d) When the individual is ordered to receive community outpatient restoration, to provide services to the individual including:

(i) Assisting the individual with attending appointments and classes relating to outpatient competency restoration;

(ii) Coordinating access to housing for the individual;

(iii) Meeting with the individual on a regular basis;

(iv) Providing information to the court concerning the individual's progress and compliance with court-ordered conditions of release, which may include appearing at court hearings to provide information to the court;

(v) Coordinating the individual's access to community case management services and mental health services;

(vi) Assisting the individual with obtaining prescribed medication and encouraging adherence with prescribed medication;

(vii) Planning for a coordinated transition of the individual to a case manager in the community behavioral health system;

(viii) Attempting to follow up with the individual to check whether the meeting with a community-based case manager took place;

(ix) When the individual is a high utilizer, attempting to connect the individual with high utilizer services; and

(x) Attempting to check up on the individual at least once per month for up to sixty days after coordinated transition to community behavioral health services, without duplicating the services of the community-based case manager.

(4) Forensic navigators may submit nonclinical recommendations to the court regarding treatment and restoration options for the individual, which the court may consider and weigh in conjunction with the recommendations of all of the parties.

(5) Forensic navigators shall be deemed officers of the court for the purpose of immunity from civil liability.

(6) The signed order for competency evaluation from the court shall serve as authority for the forensic navigator to be given access to all records held by a behavioral health, educational, or law enforcement agency or a correctional facility that relates to an individual. Information that is protected by state or federal law, including health information, shall not be entered into the court record without the consent of the individual or their defense attorney.

(7) Admissions made by the individual in the course of receiving services from the forensic navigator may not be used against the individual in the prosecution's case in chief.

(8) A court may not issue an order appointing a forensic navigator unless the department certifies that there is adequate forensic navigator capacity to provide these services at the time the order is issued.

Sec. 3. RCW 10.31.110 and 2014 c 225 s 57 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a ~~((nonfelony))~~ crime ~~((that is not a serious offense as identified in RCW 10.77.092))~~, and the individual is known by history or consultation with the behavioral health organization, managed care organization, behavioral health administrative services organization, crisis hotline, or local crisis services providers to suffer from a mental disorder, in addition to existing authority under state law, as an alternative to arrest, the arresting officer ~~((may))~~ is authorized and encouraged to:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020~~((6))~~. Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(c) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

(d) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) If the individual is released to the community, the mental health provider shall make reasonable efforts to inform the arresting officer of the planned release ~~((within a reasonable period of time after the))~~ prior to release if the arresting officer has specifically requested notification and provided contact information to the provider.

(3) In deciding whether to refer the individual to treatment under this section, the police officer ~~((shall))~~ must be guided by ~~((standards))~~ local law enforcement diversion guidelines for behavioral health developed and mutually agreed upon with the prosecuting authority~~((, which))~~ with an opportunity for consultation and comment by the defense bar and disability community. These guidelines must address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual,

~~((where))~~ if available, the opinions of a mental health professional, if available, and the circumstances surrounding the commission of the alleged offense. The guidelines must include a process for clearing outstanding warrants or referring the individual for assistance in clearing outstanding warrants, if any, and issuing a new court date, if appropriate, without booking or incarcerating the individual or disqualifying him or her from referral to treatment under this section, and define the circumstances under which such action is permissible.

(4) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

(5) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

(6) The police officer is immune from liability for any good faith conduct under this section.

Sec. 4. RCW 10.77.086 and 2015 1st sp.s. c 7 s 5 are each amended to read as follows:

(1)(a)(i) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than ninety days, the court(~~(=~~

~~(A))~~ shall commit the defendant to the custody of the secretary ~~((who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or~~

~~(B) May alternatively order the defendant to undergo evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment.)~~ for competency restoration. Based on a recommendation from a forensic navigator and input from the parties, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration.

(A) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(I) Adhere to medications or receive prescribed intramuscular medication; and

(II) Abstain from alcohol and unprescribed drugs.

(B) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(C) If the court orders outpatient competency restoration, the

court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management and regular urinalysis testing for defendants who have a current substance use disorder diagnosis. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(D) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the department shall remove the defendant from the outpatient restoration program and place the defendant instead in an appropriate facility of the department for inpatient competency restoration for no longer than the time allowed as if the defendant had been initially placed into inpatient competency restoration, in addition to reasonable time for transport to or from the facility. The department shall notify the court and parties of the change in placement before the close of the next judicial day. The court shall schedule a hearing within five days to review the placement and conditions of release of the defendant and issue appropriate orders. The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.

(E) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(ii) The ninety day period for ~~((evaluation and treatment))~~ competency restoration under this subsection (1) includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days. The forty-five day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(c) If the court determines or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (4) of this section.

(2) On or before expiration of the initial period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second restoration period. The defendant, the

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defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third restoration period as provided in subsection (4) of this section if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension. The ninety-day period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

(4) For persons charged with a felony, at the hearing upon the expiration of the second restoration period or at the end of the first restoration period in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, or if the court or jury at any stage finds that the defendant is incompetent and the court determines that the defendant is unlikely to regain competency, the charges shall be dismissed without prejudice, and the court shall order the defendant be committed to a state hospital as defined in RCW 72.23.010 for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months. The six-month period includes only the time the defendant is actually at the facility and is in addition to reasonable time for transport to or from the facility.

Sec. 5. RCW 10.77.088 and 2016 sp.s. c 29 s 411 are each amended to read as follows:

(1)((+)) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(a) Shall dismiss the proceedings without prejudice and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for competency restoration, in which case the court shall schedule a hearing within seven days to determine whether to enter an order of competency restoration.

(b) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether or not competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a preponderance of the evidence that there is a compelling state interest in ordering competency restoration, then the court shall order competency restoration in accordance with subsection (2)(a) of this section.

(2)(a) If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing competency restoration treatment, then the court ((+)) shall commit the defendant to the custody of the secretary ((who shall place such defendant in an appropriate facility of the department for evaluation and treatment;

(ii) May alternatively order the defendant to undergo

evaluation and treatment at some other facility or provider as determined by the department, or under the guidance and control of a professional person. The facilities or providers may include community mental health providers or other local facilities that contract with the department and are willing and able to provide treatment under this section. During the 2015-2017 fiscal biennium, the department may contract with one or more cities or counties to provide competency restoration services in a city or county jail if the city or county jail is willing and able to serve as a location for competency restoration services and if the secretary determines that there is an emergent need for beds and documents the justification, including a plan to address the emergency. Patients receiving competency restoration services in a city or county jail must be physically separated from other populations at the jail and restoration treatment services must be provided as much as possible within a therapeutic environment.)) for competency restoration. Based on a recommendation from a forensic navigator and input from the parties, the court may order the defendant to receive inpatient competency restoration or outpatient competency restoration.

(i) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(A) Adhere to medications or receive prescribed intramuscular medication; and

(B) Abstain from alcohol and unprescribed drugs.

(ii) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under (b) of this subsection.

(iii) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management and regular urinalysis testing for defendants who have a current substance use disorder diagnosis. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(iv) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the department shall remove the defendant from the outpatient restoration program. The department shall place the defendant instead in an appropriate facility of the department for inpatient competency restoration for no longer than twenty-nine days regardless of any time spent in outpatient competency restoration, in addition to reasonable time for transport to or from the facility. The department shall notify the court and parties of the change in placement before the close of the next judicial day. The court shall schedule a hearing within five days to review the placement and conditions of release of the defendant and issue appropriate orders. The standard of proof shall be a preponderance of the evidence, and the court may in its discretion render its decision based on written submissions, live testimony, or remote testimony.

(v) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an

available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(b) The placement under (a) ~~((i) and (ii))~~ of this subsection shall not exceed ~~(fourteen)~~ twenty-nine days ~~((in addition to any unused time of the evaluation under RCW 10.77.060. The court shall compute this total period and include its computation in the order. The fourteen day period plus any unused time of the evaluation under RCW 10.77.060 shall))~~ if the defendant is ordered to receive inpatient competency restoration, or shall not exceed ninety days if the defendant is ordered to receive outpatient competency restoration. The court may order any combination of this subsection, not to exceed ninety days. This period must be considered to include only the time the defendant is actually at the facility and shall be in addition to reasonable time for transport to or from the facility~~((;~~

~~((iii) May alternatively order that the defendant be placed on conditional release for up to ninety days for mental health treatment and restoration of competency; or~~

~~((iv) May order any combination of this subsection)).~~

~~((b))~~ (c) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in ~~((e))~~ (d) of this subsection.

~~((e))~~ (d)(i) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(ii) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two-hour period.

~~((2))~~ (3) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092:

The court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW. The court must give notice to all parties at least twenty-four hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Dhingra moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5444.

Senator Dhingra spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the Senate concur in the House

amendment(s) to Engrossed Second Substitute Senate Bill No. 5444.

The motion by Senator Dhingra carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5444 by voice vote.

MOTIONS

On motion of Senator Wilson, C., Senator Saldaña was excused.

On motion of Senator Liias, Senator Takko was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5444, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5444, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Takko

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5444, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5453 with the following amendment(s): 5453.E AMH ENGR H2718.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 87.03.082 and 2013 c 23 s 488 are each amended to read as follows:

Each director shall take and subscribe an official oath for the faithful discharge of the duties of his or her office~~((, and shall execute a bond to the district in the sum of one thousand dollars, conditioned for the faithful discharge of his or her duties, which shall be approved by the judge of the superior court of the county where the district was organized,))~~ and the oath ~~((and bond))~~ shall be recorded ~~((in the office of the county clerk of that county))~~ and filed with the secretary of the board of directors. The secretary shall take and subscribe a written oath of office ~~((and execute a bond in the sum of not less than one thousand dollars to be fixed by the directors))~~, which shall be approved and filed as in the case of ~~((the bond of))~~ a director. ~~((If a district is appointed fiscal agent of the United States to collect money for it, the secretary and directors and the district treasurer shall each execute such additional bonds as the secretary of the interior may require,~~

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~~conditioned for the faithful discharge of their duties which shall be approved, recorded, and filed as other official bonds. All such bonds shall be secured at the cost of the district.)~~

Sec. 2. RCW 87.03.435 and 1997 c 354 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section and RCW 87.03.436, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the board is situated, ~~(and)~~ in any other newspaper which may be designated by the board, and on the irrigation district's web site or on the county's web site where the district is located if the district does not have a web site, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may contract using the small works roster process in RCW 39.04.155 or if no bid is received on the first call the board may readvertise and make a second call or shall solicit electronic or written quotations from a minimum of three qualified contractors and shall award the contract to the lowest responsible bidder. After an award is made, the quotations shall be open to public inspection and available by electronic request. The district shall attempt to distribute opportunities for projects equitably among contractors willing to perform in the geographic area of the work. The district shall maintain a list of contractors contacted and the contracts awarded during the previous twenty-four months. The district also may proceed to construct the work under its own superintendence. All work shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. The board of directors may require bidders submitting bids for the construction or maintenance for any of the works of the district, or for the furnishing of labor or material, to accompany their bids by a deposit in cash, certified check, cashier's check, or surety bond in an amount equal to five percent of the amount of the bid and a bid shall not be considered unless the deposit is enclosed with it. If the contract is let, then all the bid deposits shall be returned to the unsuccessful bidders. The bid deposit of the successful bidder shall be retained until a contract is entered into for the purchase of the materials or doing of such work, and a bond given to the district in accordance with chapter 39.08 RCW for the performance of the contract. The performance bond shall be conditioned as may be required by law and as may be required by resolution of the board, with good and sufficient sureties satisfactory to the board, payable to the district for its use, for at least twenty-five percent of the contract price. If the successful bidder fails to enter into a contract and furnish the necessary bond within twenty days from the award, exclusive of the day of the award, the bid deposit shall be forfeited to the district and the contract may then be awarded to the second lowest bidder.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material.

(3) The provisions of this section do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or

property of the district would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

NEW SECTION. **Sec. 3.** (1) The Washington association of county officials must conduct a study of irrigation district election-related practices and procedures and recommend best practices to standardize those procedures across all districts. Best practices are those that are equitable and ensure thorough governance of irrigation districts. In conducting this study, the Washington association of county officials may collaborate with the secretary of state, county assessors, county auditors, and other relevant stakeholders as necessary.

(2) The Washington association of county officials must report its findings and recommendations to the governor and the appropriate committees of the legislature by December 1, 2019. At minimum, recommendations for the standardization of election procedures must include procedures to:

- (a) Identify qualified voters and directors;
- (b) Notify qualified voters and directors;
- (c) Deliver and return ballots;
- (d) Identify and count official returns; and
- (e) Declare the winning candidate."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5453.

Senator Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5453.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5453 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5453, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5453, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Takko

ENGROSSED SENATE BILL NO. 5453, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497 with the following amendment(s): 5497-S2.E AMH ENGR H2878.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that Washington state has a thriving economy that spans both east and west, and encompasses agriculture, food processing, timber, construction, health care, technology, and the hospitality industries.

(2) The legislature also finds that Washington employers rely on a diverse workforce to ensure the economic vitality of the state. Nearly one million Washingtonians are immigrants, which is one out of every seven people in the state. Immigrants make up over sixteen percent of the workforce. In addition, fifteen percent of all business owners in the state were born outside the country, and these business owners have a large impact on the economy through innovation and the creation of jobs. Immigrants make a significant contribution to the economic vitality of this state, and it is essential that the state have policies that recognize their importance to Washington's economy.

(3) In recognition of this significant contribution to the overall prosperity and strength of Washington state, the legislature, therefore, has a substantial and compelling interest in ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working.

NEW SECTION. Sec. 2. A new section is added to chapter 43.17 RCW to read as follows:

The definitions in this section apply throughout this section and sections 3 through 9 of this act unless the context clearly requires otherwise.

(1) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law issued by a federal immigration authority. A "civil immigration warrant" includes, but is not limited to, administrative warrants issued on forms I-200 or I-203, or their successors, and civil immigration warrants entered in the national crime information center database.

(2) "Court order" means a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the Washington Constitution. A "court order" includes but is not limited to warrants and subpoenas.

(3) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of the United States department of homeland security including but not limited to its subagencies, immigration and customs enforcement and customs and border protection, and any present or future divisions thereof, charged with immigration enforcement.

(4) "Health facility" has the same meaning as the term "health care facility" provided in RCW 70.175.020, and includes substance abuse treatment facilities.

(5) "Hold request" or "immigration detainer request" means a

request from a federal immigration authority, without a court order, that a state or local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to a federal immigration authority. A "hold request" or "immigration detainer request" includes, but is not limited to, department of homeland security form I-247A or prior or subsequent versions of form I-247.

(6) "Immigration detention agreement" means any contract, agreement, intergovernmental service agreement, or memorandum of understanding that permits a state or local law enforcement agency to house or detain individuals for federal civil immigration violations.

(7) "Immigration or citizenship status" means as such status has been established to such individual under the immigration and nationality act.

(8) "Language services" includes but is not limited to translation, interpretation, training, or classes. Translation means written communication from one language to another while preserving the intent and essential meaning of the original text. Interpretation means transfer of an oral communication from one language to another.

(9) "Local government" means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to, cities, counties, school districts, and special purpose districts.

(10) "Local law enforcement agency" means any agency of a city, county, special district, or other political subdivision of the state that is a general authority Washington law enforcement agency, as defined by RCW 10.93.020, or that is authorized to operate jails or to maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.

(11) "Notification request" means a request from a federal immigration authority that a state or local law enforcement agency inform a federal immigration authority of the release date and time in advance of the release of an individual in its custody. "Notification request" includes, but is not limited to, the department of homeland security's form I-247A, form I-247N, or prior or subsequent versions of such forms.

(12) "Physical custody of the department of corrections" means only those individuals detained in a state correctional facility but does not include minors detained pursuant to chapter 13.40 RCW, or individuals in community custody as defined in RCW 9.94A.030.

(13) "Public schools" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board and all institutions of higher education as defined in RCW 28B.10.016.

(14) "School resource officer" means a commissioned law enforcement officer in the state of Washington with sworn authority to uphold the law and assigned by the employing police department or sheriff's office to work in schools to ensure school safety. By building relationships with students, school resource officers work alongside school administrators and staff to help students make good choices. School resource officers are encouraged to focus on keeping students out of the criminal justice system when possible and not impose criminal sanctions in matters that are more appropriately handled within the educational system.

(15) "State agency" has the same meaning as provided in RCW 42.56.010.

(16) "State law enforcement agency" means any agency of the state of Washington that:

(a) Is a general authority Washington law enforcement agency

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as defined by RCW 10.93.020;

(b) Is authorized to operate prisons or to maintain custody of individuals in prisons; or

(c) Is authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

NEW SECTION. Sec. 3. A new section is added to chapter 43.330 RCW to read as follows:

(1) A keep Washington working statewide work group is established within the department. The work group must:

(a) Develop strategies with private sector businesses, labor, and immigrant advocacy organizations to support current and future industries across the state;

(b) Conduct research on methods to strengthen career pathways for immigrants and create and enhance partnerships with projected growth industries;

(c) Support business and agriculture leadership, civic groups, government, and immigrant advocacy organizations in a statewide effort to provide predictability and stability to the workforce in the agriculture industry; and

(d) Recommend approaches to improve Washington's ability to attract and retain immigrant business owners that provide new business and trade opportunities.

(2) The work group must consist of eleven representatives, each serving a term of three years, representing members from geographically diverse immigrant advocacy groups, professional associations representing business, labor organizations with a statewide presence, agriculture and immigrant legal interests, faith-based community nonprofit organizations, legal advocacy groups focusing on immigration and criminal justice, academic institutions, and law enforcement. The terms of the members must be staggered. Members of the work group must select a chair from among the membership. The work group must meet at least four times a year and hold meetings in various locations throughout the state. Following each meeting, the work group must report on its status, including meeting minutes and a meeting summary to the department. The department must provide a report to the legislature annually.

(3) In addition to the duties and powers described in RCW 43.330.040, it is the director's duty to provide support to the work group.

(4) The definitions in section 2 of this act apply to this section.

NEW SECTION. Sec. 4. A new section is added to chapter 43.10 RCW to read as follows:

(1) The attorney general, in consultation with appropriate stakeholders, must publish model policies within twelve months after the effective date of this section for limiting immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, health facilities operated by the state or a political subdivision of the state, courthouses, and shelters, to ensure they remain safe and accessible to all Washington residents, regardless of immigration or citizenship status.

(2) All public schools, health facilities either operated by the state or a political subdivision of the state, and courthouses must:

(a) Adopt necessary changes to policies consistent with the model policy; or

(b) Notify the attorney general that the agency is not adopting the changes to its policies consistent with the model policy, state the reasons that the agency is not adopting the changes, and provide the attorney general with a copy of the agency's policies.

(3) All other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, are encouraged to adopt the model policy.

(4) Implementation of any policy under this section must be in

accordance with state and federal law; policies, grants, waivers, or other requirements necessary to maintain funding; or other agreements related to the operation and functions of the organization, including databases within the organization.

(5) The definitions in section 2 of this act apply to this section.

NEW SECTION. Sec. 5. A new section is added to chapter 43.17 RCW to read as follows:

(1) Except as provided in subsection (3) of this section, no state agency, including law enforcement, may use agency funds, facilities, property, equipment, or personnel to investigate, enforce, cooperate with, or assist in the investigation or enforcement of any federal registration or surveillance programs or any other laws, rules, or policies that target Washington residents solely on the basis of race, religion, immigration, or citizenship status, or national or ethnic origin. This subsection does not apply to any program with the primary purpose of providing persons with services or benefits, or to RCW 9.94A.685.

(2) Except as provided in subsection (3) of this section, the state agencies listed in subsections (5) and (6) of this section shall review their policies and identify and make any changes necessary to ensure that:

(a) Information collected from individuals is limited to the minimum necessary to comply with subsection (3) of this section;

(b) Information collected from individuals is not disclosed except as necessary to comply with subsection (3) of this section or as permitted by state or federal law;

(c) Agency employees may not condition services or request information or proof regarding a person's immigration status, citizenship status, or place of birth; and

(d) Public services are available to, and agency employees shall serve, all Washington residents without regard to immigration or citizenship status.

(3) Nothing in subsection (1) or (2) of this section prohibits the collection, use, or disclosure of information that is:

(a) Required to comply with state or federal law;

(b) In response to a lawfully issued court order;

(c) Necessary to perform agency duties, functions, or other business, as permitted by statute or rule, conducted by the agency that is not related to immigration enforcement;

(d) Required to comply with policies, grants, waivers, or other requirements necessary to maintain funding; or

(e) In the form of deidentified or aggregated data, including census data.

(4) Any changes to agency policies required by this section must be made as expeditiously as possible, consistent with agency procedures. Final policies must be published.

(5) The following state agencies shall begin implementation of this section within twelve months after the effective date of this section and demonstrate full compliance by December 1, 2021:

(a) Department of licensing;

(b) Department of labor and industries;

(c) Employment security department;

(d) Department of revenue;

(e) Department of health;

(f) Health care authority;

(g) Department of social and health services;

(h) Department of children, youth, and families;

(i) Office of the superintendent of public instruction;

(j) State patrol.

(6) The following state agencies may begin implementation of this section by December 1, 2021, and must demonstrate full compliance by December 1, 2023:

(a) Department of agriculture;

(b) Department of financial institutions;

- (c) Department of fish and wildlife;
- (d) Department of natural resources;
- (e) Department of retirement systems;
- (f) Department of services for the blind;
- (g) Department of transportation.

NEW SECTION. Sec. 6. A new section is added to chapter 10.93 RCW to read as follows:

(1) The definitions contained in section 2 of this act apply to this section.

(2) The legislature finds that it is not the primary purpose of state and local law enforcement agencies or school resource officers to enforce civil federal immigration law. The legislature further finds that the immigration status of an individual or an individual's presence in, entry, or reentry to, or employment in the United States alone, is not a matter for police action, and that United States federal immigration authority has primary jurisdiction for enforcement of the provisions of Title 8 U.S.C. dealing with illegal entry.

(3) School resource officers, when acting in their official capacity as a school resource officer, may not:

(a) Inquire into or collect information about an individual's immigration or citizenship status, or place of birth; or

(b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.

(4) State and local law enforcement agencies may not:

(a) Inquire into or collect information about an individual's immigration or citizenship status, or place of birth unless there is a connection between such information and an investigation into a violation of state or local criminal law; or

(b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law.

(5) State and local law enforcement agencies may not provide nonpublicly available personal information about an individual, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities in a noncriminal matter, except as required by state or federal law.

(6)(a) State and local law enforcement agencies may not give federal immigration authorities access to interview individuals about a noncriminal matter while they are in custody, except as required by state or federal law, a court order, or by (b) of this subsection.

(b) Permission may be granted to a federal immigration authority to conduct an interview regarding federal immigration violations with a person who is in the custody of a state or local law enforcement agency if the person consents in writing to be interviewed. In order to obtain consent, agency staff shall provide the person with an oral explanation and a written consent form that explains the purpose of the interview, that the interview is voluntary, and that the person may decline to be interviewed or may choose to be interviewed only with the person's attorney present. The form must state explicitly that the person will not be punished or suffer retaliation for declining to be interviewed. The form must be available at least in English and Spanish and explained orally to a person who is unable to read the form, using, when necessary, an interpreter from the district communications center "language line" or other district resources.

(7) An individual may not be detained solely for the purpose of determining immigration status.

(8) An individual must not be taken into custody, or held in custody, solely for the purposes of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request.

(9)(a) To ensure compliance with all treaty obligations, including consular notification, and state and federal laws, on the commitment or detainment of any individual, state and local law enforcement agencies must explain in writing:

(i) The individual's right to refuse to disclose their nationality, citizenship, or immigration status; and

(ii) That disclosure of their nationality, citizenship, or immigration status may result in civil or criminal immigration enforcement, including removal from the United States.

(b) Nothing in this subsection allows for any violation of subsection (4) of this section.

(10) A state and local government or law enforcement agency may not deny services, benefits, privileges, or opportunities to individuals in custody, or under community custody pursuant to RCW 9.94A.701 and 9.94A.702, or in probation status, on the basis of the presence of an immigration detainer, hold, notification request, or civil immigration warrant, except as required by law or as necessary for classification or placement purposes for individuals in the physical custody of the department of corrections.

(11) No state or local law enforcement officer may enter into any contract, agreement, or arrangement, whether written or oral, that would grant federal civil immigration enforcement authority or powers to state and local law enforcement officers, including but not limited to agreements created under 8 U.S.C. Sec. 1357(g), also known as 287(g) agreements.

(12)(a) No state agency or local government or law enforcement officer may enter into an immigration detention agreement. All immigration detention agreements must be terminated no later than one hundred eighty days after the effective date of this section, except as provided in (b) of this subsection.

(b) Any immigration detention agreement in effect prior to January 1, 2019, and under which a payment was made between July 1, 2017, and December 31, 2018, may remain in effect until the date of completion or December 31, 2021, whichever is earlier.

(13) No state or local law enforcement agency or school resource officer may enter into or renew a contract for the provision of language services from federal immigration authorities, nor may any language services be accepted from such for free or otherwise.

(14) The department of corrections may not give federal immigration authorities access to interview individuals about federal immigration violations while they are in custody, except as required by state or federal law or by court order, unless such individuals consent to be interviewed in writing. Before agreeing to be interviewed, individuals must be advised that they will not be punished or suffer retaliation for declining to be interviewed.

(15) Subsections (3) through (6) of this section do not apply to individuals who are in the physical custody of the department of corrections.

(16) Nothing in this section prohibits the collection, use, or disclosure of information that is:

(a) Required to comply with state or federal law; or

(b) In response to a lawfully issued court order.

NEW SECTION. Sec. 7. To ensure state and law enforcement agencies are able to foster the community trust necessary to maintain public safety, within twelve months of the effective date of this section, the attorney general must, in consultation with appropriate stakeholders, publish model policies, guidance, and training recommendations consistent with this act and state and local law, aimed at ensuring that state and local law enforcement duties are carried out in a manner that limits, to the fullest extent practicable and consistent with federal

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and state law, engagement with federal immigration authorities for the purpose of immigration enforcement. All state and local law enforcement agencies must either:

- (1) Adopt policies consistent with that guidance; or
- (2) Notify the attorney general that the agency is not adopting the guidance and model policies, state the reasons that the agency is not adopting the model policies and guidance, and provide the attorney general with a copy of the agency's policies to ensure compliance with this act.

NEW SECTION. Sec. 8. No section of this act is intended to limit or prohibit any state or local agency or officer from:

- (1) Sending to, or receiving from, federal immigration authorities the citizenship or immigration status of a person, or maintaining such information, or exchanging the citizenship or immigration status of an individual with any other federal, state, or local government agency, in accordance with 8 U.S.C. Sec. 1373; or
- (2) Complying with any other state or federal law.

NEW SECTION. Sec. 9. 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.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

- (1) RCW 10.70.140 (Aliens committed—Notice to immigration authority) and 1992 c 7 s 29 & 1925 ex.s. c 169 s 1; and
- (2) RCW 10.70.150 (Aliens committed—Copies of clerk's records) and 1925 ex.s. c 169 s 2.

NEW SECTION. Sec. 11. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 12. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wellman moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5497.
Senator Wellman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wellman that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5497.

The motion by Senator Wellman carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5497 by voice vote.

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

5497, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5497, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

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

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

Excused: Senator Takko

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5497, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5506 with the following amendment(s): 5506 AMH TR H2750.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.38.020 and 1984 c 7 s 205 are each amended to read as follows:

(1) Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any vehicle, including but not limited to trailers, campers, and motorcycles, for more than eight hours within a twenty-four hour period, or for any person or persons to camp or to maintain a camp, tent, or other sleeping accommodation or facility, in any (~~rest area or~~) safety rest area within the limits of the right-of-way of interstate highways or other state highways or in other areas of state or interstate highways as designated in RCW 47.12.250. (~~This section does not apply to disabled vehicles.~~) The department may also designate zones within a safety rest area with shorter parking time limits for the purposes of maximum efficiency and safety. Commercial vehicles may park up to an hour beyond federally mandated rest periods.

(2) Except where specifically authorized by the department, it is unlawful for any person or persons to stop, stand, or park any disabled vehicle, including but not limited to trailers, campers, and motorcycles, in any safety rest area for more than forty-eight hours, after which time the vehicle is subject to mandatory impoundment under RCW 46.55.080(1).

(3) The department shall post appropriate signage consistent with RCW 46.55.070(1) at all safety rest areas regarding the parking time limits in this section.

(4) The Washington state patrol shall enforce this section consistent with RCW 46.55.080(1), and to the maximum extent practicable."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Senate Bill No. 5506.

Senator Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Senate Bill No. 5506.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5506 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5506, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5506, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, McCoy, Mullet, O'Ban, Padden, Pedersen, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Das, Lovelett, Nguyen, Palumbo, Randall and Wellman

Excused: Senator Takko

SENATE BILL NO. 5506, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5511 with the following amendment(s): 5511-S2 AMH CB H2784.2

Strike everything after the enacting clause and insert the following:

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

(1) Access to broadband is critical to full participation in society and the modern economy;

(2) Increasing broadband access to unserved areas of the state serves a fundamental governmental purpose and function and provides a public benefit to the citizens of Washington by enabling access to health care, education, and essential services, providing economic opportunities, and enhancing public health and safety;

(3) Achieving affordable and quality broadband access for all Washingtonians will require additional and sustained investment, research, local and community participation, and partnerships between private, public, and nonprofit entities;

(4) The federal communications commission has adopted a national broadband plan that includes recommendations directed to federal, state, and local governments, including recommendations to:

(a) Design policies to ensure robust competition and maximize consumer welfare, innovation, and investment;

(b) Ensure efficient allocation and management of assets that the government controls or influences to encourage network upgrades and competitive entry;

(c) Reform current universal service mechanisms to support deployment in high-cost areas, ensuring that low-income Americans can afford broadband, and supporting efforts to boost adoption and utilization; and

(d) Reform laws, policies, standards, and incentives to maximize the benefits of broadband in sectors that government influences significantly, such as public education, health care, and government operations;

(5) Extensive investments have been made by the telecommunications industry and the public sector, as well as policies and programs adopted to provide affordable broadband services throughout the state, that will provide a foundation to build a comprehensive statewide framework for additional actions needed to advance the state's broadband goals; and

(6) Providing additional funding mechanisms to increase broadband access in unserved areas is in the best interest of the state. To that end, this act establishes a grant and loan program that will support the extension of broadband infrastructure to unserved areas. To ensure this program primarily serves the public interest, the legislature intends that any grant or loan provided to a private entity under this program must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

NEW SECTION. Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

The definitions in this section apply throughout this section and sections 3 through 6 of this act unless the context clearly requires otherwise.

(1) "Board" means the public works board established in RCW 43.155.030.

(2) "Broadband" or "broadband service" means any service providing advanced telecommunications capability and internet access with transmission speeds that, at a minimum, provide twenty-five megabits per second download and three megabits per second upload.

(3) "Broadband infrastructure" means networks of deployed telecommunications equipment and technologies necessary to provide high-speed internet access and other advanced telecommunications services to end users.

(4) "Department" means the department of commerce.

(5) "Last mile infrastructure" means broadband infrastructure that serves as the final connection from a broadband service provider's network to the end-use customer's on-premises telecommunications equipment.

(6) "Local government" includes cities, towns, counties, municipal corporations, public port districts, public utility districts, quasi-municipal corporations, special purpose districts, and multiparty entities comprised of public entity members.

(7) "Middle mile infrastructure" means broadband infrastructure that links a broadband service provider's core network infrastructure to last mile infrastructure.

(8) "Office" means the governor's statewide broadband office established in section 3 of this act.

(9) "Tribe" means any federally recognized Indian tribe whose traditional lands and territories included parts of Washington.

(10) "Unserved areas" means areas of Washington in which households and businesses lack access to broadband service, as defined by the office, except that the state's definition for broadband service may not be actual speeds less than twenty-five

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megabits per second download and three megabits per second upload.

NEW SECTION. Sec. 3. A new section is added to chapter 43.330 RCW to read as follows:

(1) The governor's statewide broadband office is established. The director of the office must be appointed by the governor. The office may employ staff necessary to carry out the office's duties as prescribed by this act, subject to the availability of amounts appropriated for this specific purpose.

(2) The purpose of the office is to encourage, foster, develop, and improve affordable, quality broadband within the state in order to:

(a) Drive job creation, promote innovation, improve economic vitality, and expand markets for Washington businesses;

(b) Serve the ongoing and growing needs of Washington's education systems, health care systems, public safety systems, industries and business, governmental operations, and citizens; and

(c) Improve broadband accessibility for unserved communities and populations.

NEW SECTION. Sec. 4. A new section is added to chapter 43.330 RCW to read as follows:

(1) The office has the power and duty to:

(a) Serve as the central broadband planning body for the state of Washington;

(b) Coordinate with local governments, tribes, public and private entities, nonprofit organizations, and consumer-owned and investor-owned utilities to develop strategies and plans promoting deployment of broadband infrastructure and greater broadband access, while protecting proprietary information;

(c) Review existing broadband initiatives, policies, and public and private investments;

(d) Develop, recommend, and implement a statewide plan to encourage cost-effective broadband access and to make recommendations for increased usage, particularly in rural and other unserved areas;

(e) Update the state's broadband goals and definitions for broadband service in unserved areas as technology advances, except that the state's definition for broadband service may not be actual speeds less than twenty-five megabits per second download and three megabits per second upload; and

(f) Encourage public-private partnerships to increase deployment and adoption of broadband services and applications.

(2) When developing plans or strategies for broadband deployment, the office must consider:

(a) Partnerships between communities, tribes, nonprofit organizations, local governments, consumer-owned and investor-owned utilities, and public and private entities;

(b) Funding opportunities that provide for the coordination of public, private, state, and federal funds for the purposes of making broadband infrastructure or broadband services available to rural and unserved areas of the state;

(c) Barriers to the deployment, adoption, and utilization of broadband service, including affordability of service; and

(d) Requiring minimum broadband service of twenty-five megabits per second download and three megabits per second upload speed, that is scalable to faster service.

(3) The office may assist applicants for the grant and loan program created in section 7 of this act with seeking federal funding or matching grants and other grant opportunities for deploying broadband services.

(4) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the

statewide broadband account created in section 8 of this act.

(5) In carrying out its purpose, the office may collaborate with the utilities and transportation commission, the office of the chief information officer, the department of commerce, the community economic revitalization board, the public works board, the state librarian, and all other relevant state agencies.

NEW SECTION. Sec. 5. A new section is added to chapter 43.330 RCW to read as follows:

It is a goal of the state of Washington that:

(1) By 2024, all Washington businesses and residences have access to high-speed broadband that provides minimum download speeds of at least twenty-five megabits per second and minimum upload speeds of at least three megabits per second;

(2) By 2026, all Washington communities have access to at least one gigabit per second symmetrical broadband service at anchor institutions like schools, hospitals, libraries, and government buildings; and

(3) By 2028, all Washington businesses and residences have access to at least one provider of broadband with download speeds of at least one hundred fifty megabits per second and upload speeds of at least one hundred fifty megabits per second.

NEW SECTION. Sec. 6. A new section is added to chapter 43.330 RCW to read as follows:

(1) Beginning January 1, 2021, and biennially thereafter, the office shall report to the legislative committees with jurisdiction over broadband policy and finance on the office's activities during the previous two years.

(2) The report must, at a minimum, contain:

(a) An analysis of the current availability and use of broadband, including average broadband speeds, within the state;

(b) Information gathered from schools, libraries, hospitals, and public safety facilities across the state, determining the actual speed and capacity of broadband currently in use and the need, if any, for increases in speed and capacity to meet current or anticipated needs;

(c) An overview of incumbent broadband infrastructure within the state;

(d) A summary of the office's activities in coordinating broadband infrastructure development with the public works board, including a summary of funds awarded under section 7 of this act;

(e) Suggested policies, incentives, and legislation designed to accelerate the achievement of the goals under section 5 of this act; and

(f) Any proposed legislative and policy initiatives.

NEW SECTION. Sec. 7. A new section is added to chapter 43.155 RCW to read as follows:

(1) The board, in collaboration with the office, shall establish a competitive grant and loan program to award funding to eligible applicants in order to promote the expansion of access to broadband service in unserved areas of the state.

(2)(a) Grants and loans may be awarded under this section to assist in funding acquisition, installation, and construction of middle mile and last mile infrastructure that supports broadband services and to assist in funding strategic planning for deploying broadband service in unserved areas.

(b) The board may choose to fund all or part of an application for funding, provided that the application meets the requirements of subsection (9) of this section.

(3) Eligible applicants for grants and loans awarded under this section include:

(a) Local governments;

(b) Tribes;

(c) Nonprofit organizations;

- (d) Cooperative associations;
- (e) Multiparty entities comprised of public entity members;
- (f) Limited liability corporations organized for the purpose of expanding broadband access; and
- (g) Incorporated businesses or partnerships.

(4)(a) The board shall develop administrative procedures governing the application and award process. The board shall act as fiscal agent for the program and is responsible for receiving and reviewing applications and awarding funds under this section.

(b) At least sixty days prior to the first day applications may be submitted each fiscal year, the board must publish on its web site the specific criteria and any quantitative weighting scheme or scoring system that the board will use to evaluate or rank applications and award funding.

(c) The board may maintain separate accounting in the statewide broadband account created in section 8 of this act as the board deems necessary to carry out the purposes of this section.

(d) The board must provide a method for the allocation of loans, grants, provision of technical assistance, and interest rates under this section.

(5) An applicant for a grant or loan under this section must provide the following information on the application:

- (a) The location of the project;
- (b) Evidence regarding the unserved nature of the community in which the project is to be located;
- (c) Evidence that proposed infrastructure will be capable of scaling to greater download and upload speeds;
- (d) The number of households passed that will gain access to broadband service as a result of the project or whose broadband service will be upgraded as a result of the project;
- (e) The estimated cost of retail services to end users facilitated by a project;
- (f) The proposed actual download and upload speeds experienced by end users;
- (g) Evidence of significant community institutions that will benefit from the proposed project;
- (h) Anticipated economic, educational, health care, or public safety benefits created by the project;
 - (i) Evidence of community support for the project;
 - (j) If available, a description of the applicant's user adoption assistance program and efforts to promote the use of newly available broadband services created by the project;
 - (k) The estimated total cost of the project;
- (l) Other sources of funding for the project that will supplement any grant or loan award;
- (m) A demonstration of the project's long-term sustainability, including the applicant's financial soundness, organizational capacity, and technical expertise;
- (n) A strategic plan to maintain long-term operation of the infrastructure;

(o) Evidence that no later than six weeks before submission of the application, the applicant contacted, in writing, all entities providing broadband service near the proposed project area to ask each broadband service provider's plan to upgrade broadband service in the project area to speeds that meet or exceed the state's definition for broadband service as defined in section 2 of this act, within the time frame specified in the proposed grant or loan activities;

(p) If applicable, the broadband service providers' written responses to the inquiry made under (o) of this subsection; and

- (q) Any additional information requested by the board.

(6)(a) Within thirty days of the close of the grant and loan application process, the board shall publish on its web site the proposed geographic broadband service area and the proposed broadband speeds for each application submitted.

- (b) Any existing broadband service provider near the proposed

project area may, within thirty days of publication of the information under (a) of this subsection, submit in writing to the board an objection to an application. An objection must contain information demonstrating that:

(i) The project would result in overbuild, meaning that the objecting provider currently provides, or has begun construction to provide, broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in section 5 of this act; or

(ii) The objecting provider commits to complete construction of broadband infrastructure and provide broadband service to end users in the proposed project area at speeds equal to or greater than the state speed goals contained in section 5 of this act, no later than twenty-four months after the date awards are made under this section for the grant and loan cycle under which the application was submitted.

(c) Objections submitted to the board under this subsection must be certified by affidavit.

(d) The board may evaluate the information submitted under this section by the objecting provider and must consider it in making a determination on the application objected to. The board may request clarification or additional information. The board may choose to not fund a project if the board determines that the objecting provider's commitment to provide broadband service that meets the requirements of (b) of this subsection in the proposed project area is credible. In assessing the commitment, the board may consider whether the objecting provider has or will provide a bond, letter of credit, or other indicia of financial commitment guaranteeing the project's completion.

(e) If the board denies funding to an applicant as a result of a broadband service provider's objection made under this section, and the broadband service provider does not fulfill its commitment to provide broadband service in the project area, then for the following two grant and loan cycles, the board is prohibited from denying funding to an applicant on the basis of a challenge by the same broadband service provider, unless the board determines that the broadband service provider's failure to fulfill the provider's commitment was the result of factors beyond the broadband service provider's control. The board is not prohibited from denying funding to an applicant for reasons other than an objection by the same broadband service provider.

(f) An applicant or broadband service provider that objected to the application may request a debriefing conference regarding the board's decision on the application. Requests for debriefing must be coordinated by the office and must be submitted in writing in accordance with procedures specified by the office.

(g) Confidential business and financial information submitted by an objecting provider under this subsection is exempt from disclosure under chapter 42.56 RCW.

(7)(a) In evaluating applications and awarding funds, the board shall give priority to applications that are constructed in areas identified as unserved.

(b) In evaluating applications and awarding funds, the board may give priority to applications that:

(i) Provide assistance to public-private partnerships deploying broadband infrastructure from areas currently served with broadband service to areas currently lacking access to broadband services;

(ii) Demonstrate project readiness to proceed;

(iii) Construct infrastructure that is open access, meaning that during the useful life of the infrastructure, service providers may use network services and facilities at rates, terms, and conditions that are not discriminatory or preferential between providers, and employing accountable interconnection arrangements published and available publicly;

(iv) Are submitted by tribal governments whose reservations

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are in rural and remote areas where reliable and efficient broadband services are unavailable to many or most residents;

(v) Bring broadband service to tribal lands, particularly to rural and remote tribal lands or areas servicing rural and remote tribal entities;

(vi) Are submitted by tribal governments in rural and remote areas that have spent significant amounts of tribal funds to address the problem but cannot provide necessary broadband services without either additional state support, additional federal support, or both;

(vii) Serve economically distressed areas of the state as the term "distressed area" is defined in RCW 43.168.020;

(viii) Offer new or substantially upgraded broadband service to important community anchor institutions including, but not limited to, libraries, educational institutions, public safety facilities, and health care facilities;

(ix) Facilitate the use of telemedicine and electronic health records, especially in deliverance of behavioral health services and services to veterans;

(x) Provide technical support and train residents, businesses, and institutions in the community served by the project to utilize broadband service;

(xi) Include a component to actively promote the adoption of newly available broadband services in the community;

(xii) Provide evidence of strong support for the project from citizens, government, businesses, and community institutions;

(xiii) Provide access to broadband service to a greater number of unserved households and businesses, including farms;

(xiv) Utilize equipment and technology demonstrating greater longevity of service;

(xv) Seek the lowest amount of state investment per new location served and leverage greater amounts of funding for the project from other private and public sources;

(xvi) Include evidence of a customer service plan;

(xvii) Consider leveraging existing broadband infrastructure and other unique solutions;

(xviii) Benefit public safety and fire preparedness; or

(xix) Demonstrate other priorities as the board, in collaboration with the office, may prescribe by rule.

(c) The board shall endeavor to award funds under this section to qualified applicants in all regions of the state.

(d) The board shall consider affordability and quality of service to end users in making a determination on any application.

(e) The board, in collaboration with the office, may develop additional rules for eligibility, project applications, the associated objection process, and funding priority, as provided under this subsection and subsections (3), (5), and (6) of this section.

(f) The board, in collaboration with the office, may adopt rules for a voluntary nonbinding mediation between incumbent providers and applicants to the grant and loan program created in this section.

(8) To ensure a grant or loan to a private entity under this section primarily serves the public interest and benefits the public, any such grant or loan must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen years.

(9)(a) No funds awarded under this section may fund more than fifty percent of the total cost of the project, except as provided in (b) of this subsection.

(b) The board may choose to fund up to ninety percent of the total cost of a project in financially distressed areas as the term "distressed area" is defined in RCW 43.168.020, and in areas identified as Indian country as the term "Indian country" is defined in WAC 458-20-192.

(c) Funds awarded to a single project under this section must

not exceed two million dollars, except that the board may choose to fund projects qualifying for the exception in (b) of this subsection up to, but not to exceed, five million dollars.

(10) Prior to awarding funds under this section, the board must consult with the Washington utilities and transportation commission. The commission must provide to the board an assessment of the technical feasibility of a proposed application. The board must consider the commission's assessment as part of its evaluation of a proposed application.

(11) The board shall have such rights of recovery in the event of default in payment or other breach of financing agreement as may be provided in the agreement or otherwise by law.

(12) The community economic revitalization board shall facilitate the timely transmission of information and documents from its broadband program to the board in order to effectuate an orderly transition.

(13) The definitions in section 2 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. Sec. 8. A new section is added to chapter 43.155 RCW to read as follows:

(1) The statewide broadband account is created in the state treasury. Moneys received from appropriations by the legislature, the proceeds of bond sales when authorized by the legislature, repayment of loans, or any other lawful source must be deposited into the account for uses consistent with this section. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only:

(a) For grant and loan awards made under section 7 of this act, including costs incurred by the board to administer section 7 of this act;

(b) To contract for data acquisition, a statewide broadband demand assessment, or gap analysis;

(c) To supplement revenues raised by bonds sold by local governments for broadband infrastructure development; or

(d) To provide for state match requirements under federal law.

(3) The board must maintain separate accounting for any federal funds in the account.

(4) The definitions in section 2 of this act apply throughout this section unless the context clearly requires otherwise.

Sec. 9. RCW 54.16.330 and 2004 c 158 s 1 are each amended to read as follows:

(1)(a) A public utility district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

~~((a))~~ (i) For the district's internal telecommunications needs; ~~((and~~

~~((b))~~ (ii) For the provision of wholesale telecommunications services within the district and by contract with another public utility district.

~~(b) Except as provided in subsection (8) of this section, nothing in this ((subsection)) section shall be construed to authorize public utility districts to provide telecommunications services to end users.~~

(2) A public utility district providing wholesale or retail telecommunications services shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a public utility district offering rates, terms, and conditions to an entity for wholesale or retail telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) A public utility district providing wholesale or retail telecommunications services shall not be required to, but may, establish a separate utility system or function for such purpose. In either case, a public utility district providing wholesale or retail telecommunications services shall separately account for any revenues and expenditures for those services according to standards established by the state auditor pursuant to its authority in chapter 43.09 RCW and consistent with the provisions of this title. Any revenues received from the provision of wholesale or retail telecommunications services must be dedicated to costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide such services, including payments on debt issued to finance such services, until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance such telecommunications facilities are discharged or retired.

(4) When a public utility district provides wholesale or retail telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs shall be allocated or charged at its true and full value. A public utility district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale or retail telecommunications services.

(5) If a person or entity receiving retail telecommunications services from a public utility district under this section has a complaint regarding the reasonableness of the rates, terms, conditions, or services provided, the person or entity may file a complaint with the district commission.

(6) A public utility district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

~~((6))~~ (7) Except as otherwise specifically provided, a public utility district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a public utility district under this title.

(8)(a) If an internet service provider operating on telecommunications facilities of a public utility district that provides wholesale telecommunications services but does not provide retail telecommunications services, ceases to provide access to the internet to its end-use customers, and no other retail service providers are willing to provide service, the public utility district may provide retail telecommunications services to the end-use customers of the defunct internet service provider in order for end-use customers to maintain access to the internet until a replacement internet service provider is, or providers are, in operation.

(b) Within thirty days of an internet service provider ceasing to provide access to the internet, the public utility district must initiate a process to find a replacement internet service provider or providers to resume providing access to the internet using telecommunications facilities of a public utility district.

(c) For a maximum period of five months, following initiation of the process begun in (b) of this section, or, if earlier than five months, until a replacement internet service provider is, or providers are, in operation, the district commission may establish a rate for providing access to the internet and charge customers to cover expenses necessary to provide access to the internet.

(9) The tax treatment of the retail telecommunications services provided by a public utility district to the end-use customers during the period specified in subsection (8) of this section must be the same as if those retail telecommunications services were provided by the defunct internet service provider.

Sec. 10. RCW 53.08.370 and 2018 c 169 s 2 are each amended to read as follows:

(1) A port district in existence on June 8, 2000, may construct, purchase, acquire, develop, finance, lease, license, handle, provide, add to, contract for, interconnect, alter, improve, repair, operate, and maintain any telecommunications facilities within or without the district's limits for the following purposes:

(a) For the district's own use; and

(b) For the provision of wholesale telecommunications services within or without the district's limits. Nothing in this subsection shall be construed to authorize port districts to provide telecommunications services to end users.

(2) Except as provided in subsection (9) of this section, a port district providing wholesale telecommunications services under this section shall ensure that rates, terms, and conditions for such services are not unduly or unreasonably discriminatory or preferential. Rates, terms, and conditions are discriminatory or preferential when a port district offering such rates, terms, and conditions to an entity for wholesale telecommunications services does not offer substantially similar rates, terms, and conditions to all other entities seeking substantially similar services.

(3) When a port district establishes a separate utility function for the provision of wholesale telecommunications services, it shall account for any and all revenues and expenditures related to its wholesale telecommunications facilities and services separately from revenues and expenditures related to its internal telecommunications operations. Any revenues received from the provision of wholesale telecommunications services must be dedicated to the utility function that includes the provision of wholesale telecommunications services for costs incurred to build and maintain the telecommunications facilities until such time as any bonds or other financing instruments executed after June 8, 2000, and used to finance the telecommunications facilities are discharged or retired.

(4) When a port district establishes a separate utility function for the provision of wholesale telecommunications services, all telecommunications services rendered by the separate function to the district for the district's internal telecommunications needs shall be charged at its true and full value. A port district may not charge its nontelecommunications operations rates that are preferential or discriminatory compared to those it charges entities purchasing wholesale telecommunications services.

(5) A port district shall not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights held by any other person or entity to telecommunications facilities.

(6) Except as otherwise specifically provided, a port district may exercise any of the powers granted to it under this title and other applicable laws in carrying out the powers authorized under this section. Nothing in chapter 81, Laws of 2000 limits any existing authority of a port district under this title.

(7) A port district that has not exercised the authorities provided in this section prior to June 7, 2018, must develop a business case plan before exercising the authorities provided in this section. The port district must procure an independent qualified consultant to review the business case plan, including the use of public funds in the provision of wholesale telecommunications services. Any recommendations or adjustments to the business case plan made during third-party review must be received and either rejected or accepted by the port commission in an open meeting.

(8) A port district with telecommunications facilities for use in the provision of wholesale telecommunications in accordance with subsection (1)(b) of this section may be subject to local leasehold excise taxes under RCW 82.29A.040.

(9)(a) A port district under this section may select a telecommunications company to operate all or a portion of the

port district's telecommunications facilities.

(b) For the purposes of this section "telecommunications company" means any for-profit entity owned by investors that sells telecommunications services to end users.

(c) Nothing in this subsection (9) is intended to limit or otherwise restrict any other authority provided by law.

Sec. 11. RCW 80.36.630 and 2013 2nd sp.s. c 8 s 202 are each amended to read as follows:

(1) The definitions in this section apply throughout this section and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context clearly requires otherwise.

(a) "Basic residential service" means those services set out in 47 C.F.R. Sec. 54.101(a) (2011), as it existed on the effective date of this section, and mandatory extended area service approved by the commission.

(b) "Basic telecommunications services" means the following services:

- (i) Single-party service;
- (ii) Voice grade access to the public switched network;
- (iii) Support for local usage;
- (iv) Dual tone multifrequency signaling (touch-tone);
- (v) Access to emergency services (911);
- (vi) Access to operator services;
- (vii) Access to interexchange services;
- (viii) Access to directory assistance; and
- (ix) Toll limitation services.

(c) "Broadband service" means any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.

(d) "Communications provider" means a provider of communications services that assigns a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over internet protocol service, and includes local exchange carriers.

~~((d))~~ (e) "Communications services" includes telecommunications services and information services and any combination thereof.

~~((e))~~ (f) "Incumbent local exchange carrier" has the same meaning as set forth in 47 U.S.C. Sec. 251(h).

~~((f))~~ (g) "Incumbent public network" means the network established by incumbent local exchange carriers for the delivery of communications services to customers that is used by communications providers for origination or termination of communications services by or to customers.

~~((g))~~ (h) "Interconnected voice over internet protocol service" means an interconnected voice over internet protocol service that:

- ~~((a))~~ ~~((i))~~ (i) Enables real-time, two-way voice communications;
- ~~((b))~~ ~~((ii))~~ (ii) requires a broadband connection from the user's location; ~~((c))~~ ~~((iii))~~ (iii) requires internet protocol-compatible customer premises equipment; and ~~((d))~~ ~~((iv))~~ (iv) permits users generally to receive calls that originate on the public network and to terminate calls to the public network.

~~((h))~~ (i) "Program" means the state universal communications services program created in RCW 80.36.650.

~~((i))~~ (j) "Telecommunications" has the same meaning as defined in 47 U.S.C. Sec. 153(43).

~~((j))~~ (k) "Telecommunications act of 1996" means the telecommunications act of 1996 (P.L. 104-104, 110 Stat. 56).

~~((k))~~ "Working telephone number" means a north American numbering plan telephone number, or successor dialing protocol, that is developed for use in placing calls to or from the public network, that enables a consumer to make or receive calls.)

(2) This section expires July 1, ~~((2024))~~ 2025.

Sec. 12. RCW 80.36.650 and 2016 c 145 s 1 are each

amended to read as follows:

(1) A state universal communications services program is established. The program is established to protect public safety and welfare under the authority of the state to regulate telecommunications under Article XII, section 19 of the state Constitution. The purpose of the program is to support continued provision of basic telecommunications services under rates, terms, and conditions established by the commission ~~((during the time over which incumbent communications providers in the state are adapting to changes in federal universal service fund and intercarrier compensation support))~~ and the provision, enhancement, and maintenance of broadband services, recognizing that, historically, the incumbent public network functions to provide all communications services including, but not limited to, voice and broadband services.

(2) Under the program, eligible communications providers may receive distributions from the universal communications services account created in RCW 80.36.690 in exchange for the affirmative agreement to provide continued telecommunications services under the rates, terms, and conditions established by the commission under this chapter, and broadband services, for the period covered by the distribution. The commission must implement and administer the program under terms and conditions established in RCW 80.36.630 through 80.36.690. Expenditures for the program may not exceed five million dollars per fiscal year; provided, however, that if less than five million dollars is expended in any fiscal year, the unexpended portion must be carried over to subsequent fiscal years and, unless fully expended, must be available for program expenditures in such subsequent fiscal years in addition to the five million dollars allotted for each of those subsequent fiscal years.

(3) A communications provider is eligible to receive distributions from the account if:

(a)(i) The communications provider is: ~~((A))~~ (A) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; or ~~((B))~~ (B) a radio communications service company providing wireless two-way voice communications service and broadband services to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all wireline affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

~~((b))~~ (ii) The ~~((customers of the communications provider are at risk of rate instability or service interruptions or cessations absent a distribution to the provider that will allow the provider to maintain rates reasonably close to the benchmark))~~ communications provider has adopted a plan to provide, enhance, or maintain broadband services in its service area; and

~~((c))~~ (iii) The communications provider meets any other requirements established by the commission pertaining to the provision of communications services, including basic telecommunications services; or

(b) The communications provider demonstrates to the commission that the communications provider is able to provide the same or comparable services at the same or similar service quality standards at a lower price; and: (i) Will provide communications services to all customers in the exchange or exchanges in which it will provide service; and (ii) submits to the commission's regulation of its service as if it were the incumbent local exchange company serving the exchange or exchanges for which it seeks distribution from the account.

(4)(a) Distributions to eligible communications providers are based on ~~((a benchmark))~~ criteria established by the commission. ~~((The benchmark is the rate the commission determines to be a~~

~~reasonable amount customers should pay for basic residential service provided over the incumbent public network. However, if an incumbent local exchange carrier is charging rates above the benchmark for the basic residential service, that provider may not seek distributions from the fund for the purpose of reducing those rates to the benchmark.~~)

(b) If the program does not have sufficient funds to fully fund the distribution formula set out in (a) of this subsection, distributions must be reduced on a pro rata basis using the amounts calculated for that year's program support as the basis of the pro rata calculations.

(c) To receive a distribution under the program, an eligible communications provider must affirmatively consent to continue providing communications services to its customers under rates, terms, and conditions established by the commission pursuant to this chapter for the period covered by the distribution.

(5) The program is funded from amounts deposited by the legislature in the universal communications services account established in RCW 80.36.690. The commission must operate the program within amounts appropriated for this purpose and deposited in the account.

(6) The commission must periodically review the accounts and records of any communications provider that receives distributions under the program to ensure compliance with the program and monitor the providers' use of the funds.

(7) The commission must establish an advisory board, consisting of a reasonable balance of representatives from different types of stakeholders, including but not limited to communications providers and consumers, to advise the commission on any rules and policies governing the operation of the program.

(8) The program terminates on June 30, ~~((2019))~~ 2024, and no distributions may be made after that date.

(9) This section expires July 1, ~~((2020))~~ 2025.

Sec. 13. RCW 80.36.660 and 2013 2nd sp.s. c 8 s 204 are each amended to read as follows:

(1) To implement the program, the commission must adopt rules for the following purposes:

(a) Operation of the program, including criteria for: Eligibility for distributions; use of the funds; identification of any reports or data that must be filed with the commission, including, but not limited to, how a communication provider used the distributed funds; and the communications provider's infrastructure;

(b) Operation of the universal communications services account established in RCW 80.36.690;

(c) Establishment of the ~~((benchmark))~~ criteria used to calculate distributions; and

(d) Readoption, amendment, or repeal of any existing rules adopted pursuant to RCW 80.36.610 ~~((and 80.36.620))~~ as necessary to be consistent with RCW 80.36.630 through 80.36.690 and 80.36.610.

(2) This section expires July 1, ~~((2020))~~ 2025.

Sec. 14. RCW 80.36.670 and 2013 2nd sp.s. c 8 s 205 are each amended to read as follows:

(1) In addition to any other penalties prescribed by law, the commission may impose penalties for failure to make or delays in making or filing any reports required by the commission for administration of the program. In addition, the commission may recover amounts determined to have been improperly distributed under RCW 80.36.650. For the purposes of this section, the provisions of RCW 80.04.380 through 80.04.405, inclusive, apply to all companies that receive support from the universal communications services account created in RCW 80.36.690.

(2) Any action taken under this section must be taken only after

providing the affected communications provider with notice and an opportunity for a hearing, unless otherwise provided by law.

(3) Any amounts recovered under this section must be deposited in the universal communications services account created in RCW 80.36.690.

(4) This section expires July 1, ~~((2020))~~ 2025.

Sec. 15. RCW 80.36.680 and 2013 2nd sp.s. c 8 s 206 are each amended to read as follows:

(1) The commission may delegate to the commission secretary or other staff the authority to resolve disputes and make other administrative decisions necessary to the administration and supervision of the program consistent with the relevant statutes and commission rules.

(2) This section expires July 1, ~~((2020))~~ 2025.

Sec. 16. RCW 80.36.690 and 2013 2nd sp.s. c 8 s 208 are each amended to read as follows:

(1) The universal communications services account is created in the custody of the state treasurer. Revenues to the account consist of moneys deposited in the account by the legislature and any penalties or other recoveries received pursuant to RCW 80.36.670. Expenditures from the account may be used only for the purposes of the universal communications services program established in RCW 80.36.650 and commission expenses related to implementation and administration of the provisions of RCW 80.36.630 through 80.36.690 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires July 1, ~~((2020))~~ 2025.

Sec. 17. RCW 80.36.700 and 2013 2nd sp.s. c 8 s 211 are each amended to read as follows:

(1) The universal communications services program established in RCW 80.36.630 through 80.36.690 terminates on June 30, ~~((2019))~~ 2024.

(2) This section expires July 1, ~~((2020))~~ 2025.

Sec. 18. 2013 2nd sp.s. c 8 s 212 (uncodified) is amended to read as follows:

(1) By December 1, ~~((2017))~~ 2024, and in compliance with RCW 43.01.036, the Washington utilities and transportation commission ~~((must))~~ may report to the appropriate committees of the legislature, on the following: ~~((4))~~ (a) Whether funding levels for each small telecommunications company have been adequate to maintain reliable universal service; ~~((2))~~ (b) the future impacts on small telecommunications companies from the elimination of funding under this act; ~~((3))~~ (c) the impacts on customer rates from the current level of funding and the future impacts when the funding terminates under this act; and ~~((4))~~ (d) the impacts on line and service delivery investments when the funding is terminated under this act. The report may also include an analysis of the need for future program funding and recommendations on potential funding mechanisms to improve the availability of communications services, including broadband service, in unserved areas. Commission expenses related to conducting all analysis in preparation of this report must be expended from the universal communications services account.

(2) The Washington utilities and transportation commission must initiate a rule making to reform the state universal communications services program no later than ninety days following the effective date of this section. The rule making must address adding broadband as a supported service and, consistent with the size of the fund, establishing:

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- (a) Broadband provider eligibility;
- (b) Service performance and buildout requirements for funding recipients;
- (c) Support amounts for maintaining systems that meet federal or state broadband speed guidelines; and
- (d) Methods to effectively and efficiently distribute program support to eligible providers.

Sec. 19. RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the

department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, ~~((the high capacity transportation account.))~~ the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide broadband account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation

equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 20. 2013 2nd sp.s. c 8 s 303 (uncodified) is amended to read as follows:

Section 209 of this act expires July 1, ~~((2020))~~ 2025.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1)RCW 43.330.415 (Washington community technology opportunity account) and 2011 1st sp.s. c 43 s 608, 2009 c 509 s 8, & 2008 c 262 s 8;

(2)RCW 43.330.418 (Broadband deployment and adoption—Governor's actions—Oversight and implementation by the department) and 2011 1st sp.s. c 43 s 609 & 2009 c 509 s 9; and

(3)RCW 80.36.620 (Universal service program—Rules) and 1998 c 337 s 3.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. Sections 11 through 18 and 20 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 24. If specific funding for the purposes of this act, referencing this act by bill or chapter number,

is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Wellman moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5511.

Senators Wellman and Sheldon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wellman that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5511.

The motion by Senator Wellman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5511 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5511, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5511, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Takko

SECOND SUBSTITUTE SENATE BILL NO. 5511, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5551 with the following amendment(s): 5551 AMH JINK CLYN 312

On page 2, line 39, after "by" strike "assistance dogs international or a comparable and internationally" and insert "a"

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Dhingra moved that the Senate concur in the House amendment(s) to Senate Bill No. 5551.

Senators Dhingra and Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the Senate concur in the House

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amendment(s) to Senate Bill No. 5551.

The motion by Senator Dhingra carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5551 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5551, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5551, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liiias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Takko

SENATE BILL NO. 5551, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5560 with the following amendment(s): 5560-S AMH CRJ H2473.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Before a lawsuit may be commenced in disputes between elected officials, as the term "elected official" is defined in subsection (7) of this section, in their official capacity, the party bringing the claim must first notify in writing the other parties to the claim. The notice must:

- (a) Request mediation to occur;
- (b) Notify all interested parties that mediation must take place within ninety days of providing notice; and
- (c) Include a copy of this section.

(2) The making of a written, good faith notice requesting mediation prior to commencing a lawsuit by the party bringing the claim as provided in subsection (1) of this section tolls the statute of limitations until the ninetieth day from the date of notice, or the day following the date set in subsection (5) of this section, or mediation ends, whichever is later.

(3) After the notice of mediation has been provided to all interested parties, unless otherwise agreed to by the parties, all interested parties must mediate pursuant to the process set forth in this section within ninety days or by the date set in subsection (5) of this section. If any party refuses to mediate, fails to mediate in good faith, or if mediation does not resolve the claim, the party bringing the claim may commence a lawsuit on the claim upon the passage of the 90th day from the date of notice or the day following the date set in subsection (5) of this section, whichever is later.

(4) The mediator shall be agreed upon by the parties. If the parties cannot agree upon a mediator, any party may petition for the appointment of a mediator. Once a party petitions for the

appointment of a mediator, no other party may petition for the appointment of a mediator. The petition shall be filed in the superior court of the county in which one of the parties serves as an elected official. If one of the parties in the action is a superior court judge, then the petition may not be filed in the superior court in which that judge serves. If any party is a superior court judge and all the parties serve in the same county, the action shall be filed in an adjacent county.

(5) Upon designation of a mediator by the parties or the court, the mediator and the parties or the parties' representatives shall establish a date for the mediation. If a date cannot be agreed upon within ten days of the designation or appointment of the mediator, a party may petition the court, as set forth in subsection (4) of this section, to set a date for the mediation. The mediation shall occur within ninety days from the day the notice is provided under subsection (1) of this section, or on a later date if agreed to by all parties and the mediator or as scheduled by the court.

(6) Costs of the mediation, including reasonable compensation for the mediator's services, shall be paid equally by the parties unless the superior court determines otherwise in its order appointing the mediator. The details of those costs, and the compensation of the mediator, must be set forth in a mediation agreement between the mediator and all parties, or in the order appointing the mediator. Unless otherwise agreed, and except for sharing the costs of the mediator, each party shall bear its own costs and expenses, including legal fees and witness expenses, in connection with the mediation proceeding. If the matter is not resolved by mediation and the parties cannot agree as to how costs are assessed among the parties, the court that resolves the matter shall determine how costs are assessed among the parties.

(7) For the purposes of this section, "elected official" means:

- (a) Any elected or appointed county officer as enumerated in RCW 36.16.030;
- (b) Equivalent positions whether elected or appointed in charter counties; and
- (c) Superior, district, and municipal court judges located within the county.

NEW SECTION. Sec. 2. Section 1 of this act constitutes a new chapter in Title 36 RCW."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5560.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5560.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5560 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5560, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5560, as amended by the House, and the bill

passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Takko

SUBSTITUTE SENATE BILL NO. 5560, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SUBSTITUTE SENATE BILL NO. 5089,
SENATE BILL NO. 5107,
ENGROSSED SECOND SUBSTITUTE
SENATE BILL NO. 5116,
SUBSTITUTE SENATE BILL NO. 5135,
SENATE BILL NO. 5145,
SUBSTITUTE SENATE BILL NO. 5151,
ENGROSSED SECOND SUBSTITUTE
SENATE BILL NO. 5223,
SENATE BILL NO. 5227,
ENGROSSED SECOND SUBSTITUTE
SENATE BILL NO. 5397,
SENATE BILL NO. 5415,
SUBSTITUTE SENATE BILL NO. 5552,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5579,
SUBSTITUTE SENATE BILL NO. 5597,
SENATE BILL NO. 5651,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5688,
and SECOND SUBSTITUTE SENATE BILL NO. 5718.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5600 with the following amendment(s): 5600-S.E AMH ENGR H2831.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is declared to be the public policy of the state and a recognized governmental function to assist residents who are experiencing a temporary crisis in retaining stable housing, and by so doing to contribute to the general welfare. Decent housing for the people of Washington state is a most important public concern. An escalation of rents and scarcity of housing supply have made it difficult for many Washingtonians to obtain stable housing, especially if they lose housing after experiencing an extraordinary life event that temporarily leaves them without resources and income. It is the long-standing practice of the state to make rental assistance available in many such urgent situations, and it is the intent of the legislature to provide a payment on the tenant's behalf to the

landlord in certain eviction proceedings to give the tenant additional time to access resources that allow the tenants to stay in their home.

Sec. 2. RCW 59.12.030 and 1998 c 276 s 6 are each amended to read as follows:

A tenant of real property for a term less than life is (~~guilty of~~) liable for unlawful detainer either:

(1) When he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her. When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period;

(2) When he or she, having leased property for an indefinite time with monthly or other periodic rent reserved, continues in possession thereof, in person or by subtenant, after the end of any such month or period, when the landlord, more than twenty days prior to the end of such month or period, has served notice (in manner in RCW 59.12.040 provided) requiring him or her to quit the premises at the expiration of such month or period;

(3) When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW 59.12.040 provided) (~~on~~) on behalf of the person entitled to the rent upon the person owing it, has remained uncomplied with for the period of three days after service (~~thereof~~), or for the period of fourteen days after service for tenancies under chapter 59.18 RCW. The notice may be served at any time after the rent becomes due. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(4) When he or she continues in possession in person or by subtenant after a neglect or failure to keep or perform any (~~other~~) condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sublet, other than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the property, served (in manner in RCW 59.12.040 provided) upon him or her, and if there is a subtenant in actual possession of the premises, also upon such subtenant, shall remain uncomplied with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(5) When he or she commits or permits waste upon the demised premises, or when he or she sets up or carries on thereon any unlawful business, or when he or she erects, suffers, permits, or maintains on or about the premises any nuisance, and remains in possession after the service (in manner in RCW 59.12.040 provided) upon him or her of three days' notice to quit;

(6) A person who, without the permission of the owner and without having color of title thereto, enters upon land of another and who fails or refuses to remove therefrom after three days' notice, in writing and served upon him or her in the manner provided in RCW 59.12.040. Such person may also be subject to the criminal provisions of chapter 9A.52 RCW; or

(7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW 59.18.130.

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NEW SECTION. Sec. 3. A new section is added to chapter 59.18 RCW to read as follows:

(1) Every fourteen-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES

You are receiving the attached notice because the landlord alleges you are not in compliance with the terms of the lease agreement by failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

(1) Monthly rent due for (list month(s)): \$ (dollar amount) AND/OR

(2) Utilities due for (list month(s)): \$ (dollar amount) AND/OR

(3) Other recurring or periodic charges identified in the lease for (list month(s)): \$ (dollar amount)

TOTAL AMOUNT DUE: \$ (dollar amount)

Note - payment must be by cash, cashier's check, money order, or certified funds pursuant to the terms of the rental agreement.

You must pay the total amount due to your landlord within fourteen (14) days after service of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after service of this notice may result in a judicial proceeding that leads to your eviction from the premises.

The Washington state Office of the Attorney General has this notice in multiple languages on its web site. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, call 2-1-1 to learn about these services.

State law provides you the right to receive interpreter services at court.

OWNER/LANDLORD: _____ DATE: _____

WHERE TOTAL AMOUNT DUE IS TO BE PAID:
_____(owner/landlord name)_____

_____(address)_____ "

(2) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

NEW SECTION. Sec. 4. A new section is added to chapter 59.18 RCW to read as follows:

(1) The office of the attorney general shall produce and maintain on its web site translated versions of the notice under section 3 of this act in the top ten languages spoken in Washington state and, at the discretion of the office of the attorney general, other languages. The notice must be made available upon request in printed form on one letter size paper, eight and one-half by eleven inches, and in an easily readable font size.

(2) The office of the attorney general shall also provide on its web site information on where tenants can access legal or advocacy resources, including information on any immigrant and cultural organizations where tenants can receive assistance in their primary language.

(3) The office of the attorney general may also produce and maintain on its web site translated versions of common notices used in unlawful detainer actions, including those relevant to subsidized tenancies, low-income housing tax credit programs, or the federal violence against women act.

Sec. 5. RCW 59.18.030 and 2016 c 66 s 1 are each reenacted

and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(11) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(13) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(14) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(15) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(16) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(17) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(18) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed

structural engineer; or a Washington licensed architect.

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(24) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(25) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. Except as provided in section 6(3) of this act, these terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

(26) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

~~((26))~~ (27) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

~~((27))~~ (28) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

~~((28))~~ (29) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

~~((29))~~ (30) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

~~((30))~~ (31) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

NEW SECTION. Sec. 6. A new section is added to chapter 59.18 RCW to read as follows:

Under this chapter:

(1) A landlord must first apply any payment made by a tenant toward rent before applying any payment toward late payments,

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damages, legal costs, or other fees, including attorneys' fees.

(2) Except as provided in RCW 59.18.410, the tenant's right to possession of the premises may not be conditioned on a tenant's payment or satisfaction of any monetary amount other than rent. However, this does not foreclose a landlord from pursuing other lawful remedies to collect late payments, legal costs, or other fees, including attorneys' fees.

(3) When, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant's obligations and the tenant defaults in payment, the landlord may treat the default in payment as rent owing. Any rights the tenant and landlord have under this chapter with respect to rent owing equally apply under this subsection.

Sec. 7. RCW 59.18.410 and 2011 c 132 s 20 are each amended to read as follows:

(1) If ~~((upon the))~~ at trial the verdict of the jury or, if the case ~~((be))~~ is tried without a jury, the finding of the court ~~((be))~~ is in favor of the ~~((plaintiff))~~ landlord and against the ~~((defendant))~~ tenant, judgment shall be entered for the restitution of the premises; and if the proceeding ~~((be))~~ is for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings ~~((be))~~ are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the ~~((plaintiff))~~ landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved ~~((on the))~~ at trial, and, if the alleged unlawful detainer ~~((be after))~~ is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the ~~((defendant guilty of))~~ tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed ~~((and))~~, for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed seventy-five dollars in total. The court may award statutory costs ~~((and))~~. The court may also award reasonable ~~((attorney's))~~ attorneys' fees as provided in RCW 59.18.290.

(2) When the ~~((proceeding))~~ tenant is liable for ~~((an))~~ unlawful detainer after a default in the payment of rent, ~~((and the lease or agreement under which the rent is payable has not by its terms expired,))~~ execution upon the judgment shall not ~~((be issued))~~ occur until the expiration of five court days after the entry of the judgment ~~((, within which))~~. Before such time has expired, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court ~~((for))~~ or to the landlord the amount of the ~~((judgment and costs, and thereupon the judgment shall be satisfied and the))~~ rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed seventy-five dollars in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy ~~((, but))~~. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional fifty dollars for each time the tenant was reinstated after judgment pursuant to this subsection within the previous twelve months prior to payment. If payment ~~((, as herein provided, be))~~ of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

(3)(a) Following the entry of a judgment in favor of the landlord and against the tenant for the restitution of the premises

and forfeiture of the tenancy due to nonpayment of rent, the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of restitution, may stay the writ of restitution upon good cause and on such terms that the court deems fair and just for both parties. In making this decision, the court shall consider evidence of the following factors:

(i) The tenant's willful or intentional default or intentional failure to pay rent;

(ii) Whether nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and that are not likely to recur;

(iii) The tenant's ability to timely pay the judgment;

(iv) The tenant's payment history;

(v) Whether the tenant is otherwise in substantial compliance with the rental agreement;

(vi) Hardship on the tenant if evicted; and

(vii) Conduct related to other notices served within the last six months.

(b) The burden of proof for such relief under this subsection (3) shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible so as to avoid unnecessary delay or hardship on the parties.

(c) In any order issued pursuant to this subsection (3):

(i) The court shall not stay the writ of restitution more than ninety days from the date of order, but may order repayment of the judgment balance within such time. If the payment plan is to exceed thirty days, the total cumulative payments for each thirty-day period following the order shall be no less than one month of the tenant's share of the rent, and the total amount of the judgment and all additional rent that is due shall be paid within ninety days.

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the fifteenth of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the order is after the fifteenth of the month, the tenant shall have the option to apportion the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

(A) If the tenant has satisfied (c)(ii) of this subsection by paying one month's rent within five court days, but defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may enforce the writ of restitution after serving a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on rent due under the lease agreement or payment plan entered by the

court. Upon service of the notice of default, the tenant shall have three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution.

(B) If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day is not included in calculating the time before the sheriff may execute the writ of restitution. The notice of default must be in substantially the following form:

NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

NAME(S)
ADDRESS
CITY, STATE, ZIP

THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED THE FOLLOWING PAYMENTS:

DATE
AMOUNT
DATE
AMOUNT
DATE
AMOUNT

THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT AND/OR PAYMENT PLAN IN THE AMOUNT OF \$.....

PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT YOU ARE RENTING.

DATE
SIGNATURE
LANDLORD/AGENT
NAME
ADDRESS
PHONE

(iv) If a tenant seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity and provides an offer of proof, the court shall stay the writ of restitution as necessary to afford the tenant an equal opportunity to comply.

(v) The court shall extend the writ of restitution as necessary to enforce the order issued pursuant to this subsection (3)(c) in the event of default.

(d) A tenant who has been served with three or more notices to pay or vacate for failure to pay rent as set forth in RCW 59.12.040 within twelve months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief under this subsection (3).

(e)(i) In any application seeking relief pursuant to this subsection (3), the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the parties would be eligible for disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written

declarations or oral testimony by the parties at the hearing.

(ii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(c)(iii). Nothing in this subsection (3)(c) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e) within thirty days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iv) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(v) Nothing in this subsection (3)(e) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue an ex parte stay of the writ of restitution provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted.

(5) In all other cases the judgment may be enforced immediately. If a writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

(6) This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

Sec. 8. RCW 59.18.390 and 2011 c 132 s 19 are each amended to read as follows:

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the (~~defendant~~) tenant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter (~~and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. If the writ of restitution was issued after alternative service provided for in RCW 59.18.055, the court shall determine the amount of the bond after considering the rent claimed and any other factors the court deems relevant. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of~~)

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~~the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon the bond before the bond shall be approved by the clerk).~~ After the issuance of a writ of restitution, acceptance of a payment by the landlord ~~((or plaintiff))~~ that only partially satisfies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant ~~((or defendant))~~ to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement, the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW 59.18.312 shall conspicuously state in bold face type, all capitals, not less than twelve points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant ~~((the defendant))~~ nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he or she shall be unable to find the ~~((defendant))~~ tenant, an agent or attorney, or a person in possession of the premises, by affixing a copy of the writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

(2) The notice accompanying a writ of restitution required under RCW 59.18.312 shall be substantially similar to the following:

IMPORTANT NOTICE - PARTIAL PAYMENTS

YOUR LANDLORD'S ACCEPTANCE OF A PARTIAL PAYMENT FROM YOU AFTER SERVICE OF THIS WRIT OF RESTITUTION WILL NOT AUTOMATICALLY POSTPONE OR STOP YOUR EVICTION. IF YOU HAVE A WRITTEN AGREEMENT WITH YOUR LANDLORD THAT THE EVICTION WILL BE POSTPONED OR STOPPED, IT IS YOUR RESPONSIBILITY TO PROVIDE A COPY OF THE AGREEMENT TO THE SHERIFF. THE SHERIFF WILL NOT CEASE ACTION UNLESS YOU PROVIDE A COPY OF THE AGREEMENT. AT THE DIRECTION OF THE COURT THE SHERIFF MAY TAKE FURTHER ACTION.

Sec. 9. RCW 59.18.365 and 2008 c 75 s 1 are each amended to read as follows:

(1) The summons must contain the names of the parties to the proceeding, the attorney or attorneys if any, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him or her. The summons must contain a street address for service of the notice of appearance or answer and, if available, a facsimile number for the plaintiff or the plaintiff's attorney, if represented. The summons must be served and returned in the same manner as a summons in other actions is served and returned.

(2) A defendant may serve a copy of an answer or notice of appearance by any of the following methods:

(a) By delivering a copy of the answer or notice of appearance

to the person who signed the summons at the street address listed on the summons;

(b) By mailing a copy of the answer or notice of appearance addressed to the person who signed the summons to the street address listed on the summons;

(c) By facsimile to the facsimile number listed on the summons. Service by facsimile is complete upon successful transmission to the facsimile number listed upon the summons;

(d) As otherwise authorized by the superior court civil rules.

(3) The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND
FOR COUNTY
Plaintiff/
Landlord/
Owner, | NO.

vs. EVICTION SUMMONS
(Residential)

Defendant/
Tenant/
Occupant.

THIS IS ~~((NOTICE OF A LAWSUIT))~~ AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.
~~((PLEASE READ IT CAREFULLY. THE DEADLINE FOR))~~ YOUR WRITTEN RESPONSE ~~((IS))~~ MUST BE RECEIVED BY: 5:00 p.m., on
.....

TO: (Defendant's Name)
..... (Defendant's Address)

~~((This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.~~

~~If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.~~

~~You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) by personal delivery, mailing, or facsimile to the address or facsimile number stated below **TO BE RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE.** Service by facsimile is complete upon successful transmission to the facsimile number, if any, listed in the summons.~~

~~The notice of appearance or answer must include the name of this case (plaintiff(s) and defendant(s)), your name, the street address where further legal papers may be sent, your telephone number (if any), and your signature.~~

~~If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for your written response.~~

~~You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this~~

lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause **IN ADDITION** to delivering and filing your notice of appearance or answer by the deadline stated above.

~~IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.~~

The notice of appearance or answer must be delivered to:

Name

Street Address

Telephone Number

Facsimile Number (Required if Available))

GET HELP: If you do not respond by the deadline above, you will lose your right to defend yourself in court and could be evicted. If you cannot afford a lawyer, you may call 2-1-1. They can refer you to free or low-cost legal help. They can help you find help to pay for a lawyer.

HOW TO RESPOND: Phone calls to your Landlord or your Landlord's lawyer are not a response. You may respond with a "notice of appearance." This is a letter that includes the following:

- (1) A statement that you are appearing in the court case
- (2) Names of the landlord(s) and the tenant(s) (as listed above)
- (3) Your name, your address where legal documents may be sent, your signature, phone number (if any), and case number (if the case is filed)

This case is / is not filed with the court. If this case is filed, you need to also file your response with the court by delivering a copy to the clerk of the court at: (Clerk's Office/Address/Room number/Business hours of court clerk)

WHERE TO RESPOND: You must mail, fax, or hand deliver your response letter to your Landlord's lawyer, or if no lawyer is named in the complaint, to your Landlord. If you mail the response letter, you must do it 3 days before the deadline above. Request receipt of a proof of mailing from the post office. If you hand deliver or fax it, you must do it by the deadline above. The address is:

. (Attorney/Landlord Name)

. (Address)

. (Fax - required if available)

COURT DATE: If you respond to this Summons, you will be notified of your hearing date in a document called an "Order to Show Cause." This is usually mailed to you. If you get notice of a hearing, you must go to the hearing. If you do not show up, your landlord can evict you. Your landlord might also charge you more money. If you move before the court date, you must tell your landlord or the landlord's attorney.

Sec. 10 RCW 59.18.290 and 2010 c 8 s 19028 are each amended to read as follows:

(1) It (~~shall be~~) is unlawful for the landlord to remove or

exclude from the premises the tenant thereof except under a court order so authorizing. Any tenant so removed or excluded in violation of this section may recover possession of the property or terminate the rental agreement and, in either case, may recover the actual damages sustained. The prevailing party may recover the costs of suit or arbitration and reasonable (~~attorney's~~) attorneys' fees.

(2) It (~~shall be~~) is unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable (~~attorney's~~) attorneys' fees subject to subsections (3) and (4) of this section.

(3) Where the court has entered a judgment in favor of the landlord restoring possession of the property to the landlord, the court may award reasonable attorneys' fees to the landlord; however, the court shall not award attorneys' fees in the following instances:

(a) If the judgment for possession is entered after the tenant failed to appear; or

(b) If the total amount of rent awarded in the judgment for rent is equal to or less than two months of the tenant's monthly contract rent or one thousand two hundred dollars, whichever is greater.

(4) If a tenant has filed a motion to stay a writ of restitution from execution, the court may only award attorneys' fees to the landlord if the tenant is permitted to be reinstated. Any attorneys' fees awarded shall be subject to repayment pursuant to RCW 59.18.410(3).

Sec. 11. RCW 59.18.055 and 1997 c 86 s 1 are each amended to read as follows:

(1) When the (~~plaintiff~~) landlord, after the exercise of due diligence, is unable to personally serve the summons on the (~~defendant~~) tenant, the (~~court~~) landlord may (~~authorize~~) use the alternative means of service (~~described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons~~) as follows:

(a) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(b) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the (~~defendant's~~) tenant's or (~~defendants~~) tenants' last known address not less than nine days from the return date stated in the summons.

(2) When service on the (~~defendant~~) tenant or (~~defendants~~) tenants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the (~~plaintiff~~) landlord and no money judgment may be entered against the (~~defendant~~) tenant or (~~defendants~~) tenants until such time as jurisdiction over the (~~defendant~~) tenant or (~~defendants~~) tenants is obtained.

(~~(2)~~) (3) Before the entry of any judgment or issuance of a writ of restitution due to the tenant's failure to appear, the landlord shall provide the court with a declaration from the person or persons who served the tenant that describes the service achieved, and if by alternative service pursuant to this section, that describes the efforts at personal service before alternative service was used and a declaration from the landlord stating his or her belief that the tenant cannot be found.

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(4) For the purposes of subsection (1) of this section, the exercise of due diligence is met if the landlord attempts personal service on the tenant at least three times over not less than two days and at different times of the day.

(5) This section shall apply to this chapter and chapter 59.20 RCW.

Sec. 12. RCW 43.31.605 and 2018 c 66 s 2 are each amended to read as follows:

(1)(a) Subject to the availability of funds for this purpose, the landlord mitigation program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(b) The following types of claims related to landlord mitigation for renting private market rental units to low-income tenants using a housing subsidy program are eligible for reimbursement from the landlord mitigation program account:

((a)) (i) Up to one thousand dollars for improvements identified in RCW 59.18.255(1)(a). In order to be eligible for reimbursement under this subsection (1)((a)) (b)(i), the landlord must pay for the first five hundred dollars for improvements, and rent to the tenant whose housing subsidy program was conditioned on the real property passing inspection. Reimbursement under this subsection (1)((a)) (b)(i) may also include up to fourteen days of lost rental income from the date of offer of housing to the applicant whose housing subsidy program was conditioned on the real property passing inspection until move in by that applicant;

((b)) (ii) Reimbursement for damages as reflected in a judgment obtained against the tenant through either an unlawful detainer proceeding, or through a civil action in a court of competent jurisdiction after a hearing;

((c)) (iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

((d)) (iv) Reimbursement for unpaid rent and unpaid utilities, provided that the landlord can evidence it to the department's satisfaction.

(c) Claims related to landlord mitigation for an unpaid judgment for rent, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3), including any unpaid portion of the judgment after the tenant defaults on the payment plan pursuant to RCW 59.18.410(3)(c), are eligible for reimbursement from the landlord mitigation program account and are exempt from any postjudgment interest required under RCW 4.56.110. Any claim for reimbursement under this subsection (1)(c) is not an entitlement.

(i) The department shall provide for a form on its web site for tenants and landlords to apply for reimbursement funds for the landlord pursuant to this subsection (1)(c).

(ii) The form must include: (A) Space for the landlord and tenant to provide names, mailing addresses, phone numbers, date of birth for the tenant, and any other identifying information necessary for the department to process payment; (B) the landlord's statewide vendor identification number and how to obtain one; (C) name and address to whom payment must be made; (D) the amount of the judgment with instructions to include any other supporting documentation the department may need to process payment; (E) instructions for how the tenant is to reimburse the department under (c)(iii) of this subsection; (F) a description of the consequences if the tenant does not reimburse the department as provided in this subsection (1)(c); (G) a signature line for the landlord and tenant to confirm that they have read and understood the contents of the form and program; and (H) any other information necessary for the operation of the program. If the tenant has not signed the form after the landlord

has made good faith efforts to obtain the tenant's signature, the landlord may solely submit the form but must attest to the amount of money owed and sign the form under penalty of perjury.

(iii) When a landlord has been reimbursed pursuant to this subsection (1)(c), the tenant for whom payment was made shall reimburse the department by depositing the amount disbursed from the landlord mitigation program account into the court registry of the superior court in which the judgment was entered. The tenant or other interested party may seek an ex parte order of the court under the unlawful detainer action to order such funds to be disbursed by the court. Upon entry of the order, the court clerk shall disburse the funds and include a case number with any payment issued to the department. If directed by the court, a clerk shall issue any payments made by a tenant to the department without further court order.

(iv) The department may deny an application made by a tenant who has failed to reimburse the department for prior payments issued pursuant to this subsection (1)(c).

(v) With any disbursement from the account to the landlord, the department shall notify the tenant at the address provided within the application that a disbursement has been made to the landlord on the tenant's behalf and that failure to reimburse the account for the payment through the court registry may result in a denial of a future application to the account pursuant to this subsection (1)(c). The department may include any other additional information about how to reimburse the account it deems necessary to fully inform the tenant.

(vi) The department's duties with respect to obtaining reimbursement from the tenant to the account are limited to those specified within this subsection (1)(c).

(vii) If at any time funds do not exist in the landlord mitigation program account to reimburse claims submitted under this subsection (1)(c), the department must create and maintain a waitlist and distribute funds in the order the claims are received pursuant to subsection (6) of this section. Payment of any claims on the waitlist shall be made only from the landlord mitigation program account. The department shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement.

(2) In order for a claim under subsection (1)((a)) (b)(iii) of this section to be eligible for reimbursement from the landlord mitigation program account, a landlord must:

(a) Have ensured that the rental property was inspected at the commencement of the tenancy by both the tenant and the landlord or landlord's agent and that a detailed written move-in property inspection report, as required in RCW 59.18.260, was prepared and signed by both the tenant and the landlord or landlord's agent;

(b) Make repairs and then apply for reimbursement to the department;

(c) Submit a claim on a form to be determined by the department, signed under penalty of perjury; and

(d) Submit to the department copies of the move-in property inspection report specified in (a) of this subsection and supporting materials including, but not limited to, before repair and after repair photographs, videos, copies of repair receipts for labor and materials, and such other documentation or information as the department may request.

(3) The department shall make reasonable efforts to review a claim within ten business days from the date it received properly submitted and complete claims to the satisfaction of the department. In reviewing a claim pursuant to subsection (1)(b) of this section, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a private

market rental unit rented to a low-income tenant who is using a housing subsidy program.

(4) Claims pursuant to subsection (1)(b) of this section related to a tenancy must total at least five hundred dollars in order for a claim to be eligible for reimbursement from the program. While claims or damages may exceed five thousand dollars, total reimbursement from the program may not exceed five thousand dollars per tenancy.

(5) Damages, beyond wear and tear, that are eligible for reimbursement include, but are not limited to: Interior wall gouges and holes; damage to doors and cabinets, including hardware; carpet stains or burns; cracked tiles or hard surfaces; broken windows; damage to household fixtures such as disposal, toilet, sink, sink handle, ceiling fan, and lighting. Other property damages beyond normal wear and tear may also be eligible for reimbursement at the department's discretion.

(6) All reimbursements for eligible claims shall be made on a first-come, first-served basis, to the extent of available funds. The department shall use best efforts to notify the tenant of the amount and the reasons for any reimbursements made.

(7) The department, in its sole discretion, may inspect the property and the landlord's records related to a claim, including the use of a third-party inspector as needed to investigate fraud, to assist in making its claim review and determination of eligibility.

(8) A landlord in receipt of reimbursement from the program pursuant to subsection (1)(b) of this section is prohibited from:

(a) Taking legal action against the tenant for damages attributable to the same tenancy; or

(b) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages attributable to the same tenancy.

(9) A landlord denied reimbursement under subsection (1)(~~(e)~~) (b)(iii) of this section may seek to obtain a judgment from a court of competent jurisdiction and, if successful, may resubmit a claim for damages supported by the judgment, along with a certified copy of the judgment. The department may reimburse the landlord for that portion of such judgment that is based on damages reimbursable under the landlord mitigation program, subject to the limitations set forth in this section.

(10) Determinations regarding reimbursements shall be made by the department in its sole discretion.

(11) The department must establish a web site that advertises the landlord mitigation program, the availability of reimbursement from the landlord mitigation program account, and maintains or links to the agency rules and policies established pursuant to this section.

(12) Neither the state, the department, or persons acting on behalf of the department, while acting within the scope of their employment or agency, is liable to any person for any loss, damage, harm, or other consequence resulting directly or indirectly from the department's administration of the landlord mitigation program or determinations under this section.

(13)(a) A report to the appropriate committees of the legislature on the effectiveness of the program and recommended modifications shall be submitted to the governor and the appropriate committees of the legislature by January 1, 2021. In preparing the report, the department shall convene and solicit input from a group of stakeholders to include representatives of large multifamily housing property owners or managers, small rental housing owners in both rural and urban markets, a representative of tenant advocates, and a representative of the housing authorities.

(b) The report shall include discussion of the effectiveness of the program as well as the department's recommendations to improve the program, and shall include the following:

(i) The number of total claims and total amount reimbursed to landlords by the fund;

(ii) Any indices of fraud identified by the department;

(iii) Any reports by the department regarding inspections authorized by and conducted on behalf of the department;

(iv) An outline of the process to obtain reimbursement for improvements and for damages from the fund;

(v) An outline of the process to obtain reimbursement for lost rent due to the rental inspection and tenant screening process, together with the total amount reimbursed for such damages;

(vi) An evaluation of the feasibility for expanding the use of the mitigation fund to provide up to ninety-day no interest loans to landlords who have not received timely rental payments from a housing authority that is administering section 8 rental assistance;

(vii) Any other modifications and recommendations made by stakeholders to improve the effectiveness and applicability of the program.

(14) As used in this section:

(a) "Housing subsidy program" means a housing voucher as established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially by the program and partially by the tenant, or completely by the program directly to the landlord;

(b) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the private market rental unit is located; and

(c) "Private market rental unit" means any unit available for rent that is owned by an individual, corporation, limited liability company, nonprofit housing provider, or other entity structure, but does not include housing acquired, or constructed by a public housing agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

Sec. 13. RCW 43.31.615 and 2018 c 66 s 3 are each amended to read as follows:

(1) The landlord mitigation program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments, private contributions, and all other sources must be deposited into the account. Expenditures from the account may only be used for the landlord mitigation program under this chapter to reimburse landlords for eligible claims related to private market rental units during the time of their rental to low-income tenants using housing subsidy programs as defined in RCW 43.31.605, for any unpaid judgment issued within an unlawful detainer action after a court order pursuant to RCW 59.18.410(3) as described in RCW 43.31.605(1)(c), and for the administrative costs identified in subsection (2) of this section. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Administrative costs associated with application, distribution, and other program activities of the department may not exceed ~~((ten))~~ twenty percent of the annual funds available for the landlord mitigation program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

NEW SECTION. Sec. 14. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus capital or

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 omnibus appropriations acts, this act is null and void."
 Correct the title.

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 and ENGROSSED HOUSE BILL NO. 1996.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Kuderer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5600. Senators Kuderer and Mullet spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kuderer that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5600.

The motion by Senator Kuderer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5600 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5600, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5600, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

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

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

Excused: Senator Takko

ENGROSSED SUBSTITUTE SENATE BILL NO. 5600, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced students and representatives from Foothills Elementary School, Buckley, who were seated in the gallery.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1543,
- HOUSE BILL NO. 1561,
- SUBSTITUTE HOUSE BILL NO. 1587,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1817,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1879,
- HOUSE BILL NO. 1900,
- SUBSTITUTE HOUSE BILL NO. 1919,
- SUBSTITUTE HOUSE BILL NO. 1953,
- SECOND SUBSTITUTE HOUSE BILL NO. 1973,

MOTION

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

SECOND READING

HOUSE BILL NO. 2144, by Representatives Sullivan, Stokesbary, Bergquist, Irwin, Robinson and Ormsby

Concerning funding of law enforcement officers' and firefighters' plan 2 benefit improvements.

The measure was read the second time.

MOTION

On motion of Senator Rolfes, the rules were suspended, House Bill No. 2144 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rolfes and Holy 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. 2144.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2144 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Mullet and Short

Excused: Senator Takko

HOUSE BILL NO. 2144, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 18, 2019

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1696 and asks the Senate to recede therefrom. and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Keiser moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1696.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1696.

The motion by Senator Keiser carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1696 by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended and Engrossed Substitute House Bill No. 1696 was returned to second reading for the purposes of amendment.

MOTION

Senator Keiser moved that the following striking amendment no. 758 by Senator Keiser be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 49.58.005 and 2018 c 116 s 1 are each amended to read as follows:

(1) The legislature finds that despite existing equal pay laws, there continues to be a gap in wages and advancement opportunities among workers in Washington, especially women. Income disparities limit the ability of women to provide for their families, leading to higher rates of poverty among women and children. The legislature finds that in order to promote fairness among workers, employees must be compensated equitably. Further, policies that encourage retaliation or discipline towards workers who discuss or inquire about compensation prevent workers from moving forward.

(2) The legislature intends to update the existing Washington state equal pay act, not modified since 1943, to address income disparities, employer discrimination, and retaliation practices, and to reflect the equal status of all workers in Washington state.

(3) The legislature finds that:

(a) The long-held business practice of inquiring about salary history has contributed to persistent earning inequalities;

(b) Historically, women have been offered lower initial pay than men for the same jobs even where their levels of education and experience are the same or comparable; and

(c) Lower starting salaries translate into lower pay, less family income, and more children and families in poverty.

(4) The legislature therefore intends to follow multiple other states and take the additional step towards gender equality by prohibiting an employer from seeking the wage or salary history of an applicant for employment in certain circumstances. Further, the legislature intends to require an employer to provide wage and salary information to applicants and employees.

NEW SECTION. Sec. 2. A new section is added to chapter 49.58 RCW to read as follows:

(1) An employer may not:

(a) Seek the wage or salary history of an applicant for employment from the applicant or a current or former employer; or

(b) Require that an applicant's prior wage or salary history meet certain criteria, except as provided in subsection (2) of this section.

(2) An employer may confirm an applicant's wage or salary history:

(a) If the applicant has voluntarily disclosed the applicant's wage or salary history; or

(b) After the employer has negotiated and made an offer of employment with compensation to the applicant.

(3) An individual is entitled to the remedies in RCW 49.58.060 and 49.58.070 for violations of this section. Recovery of any wages and interest must be calculated from the first date wages were owed to the employee.

NEW SECTION. Sec. 3. A new section is added to chapter 49.58 RCW to read as follows:

(1) Upon request of an applicant for employment after the employer has initially offered the applicant the position, the employer must provide the minimum wage or salary for the position for which the applicant is applying.

(2) Upon request of an employee offered an internal transfer to a new position or promotion, the employer must provide the wage scale or salary range for the employee's new position.

(3) If no wage scale or salary range exists, the employer must provide the minimum wage or salary expectation set by the employer prior to posting the position, making a position transfer, or making the promotion.

(4) This section only applies to employers with fifteen or more employees.

(5) An individual is entitled to the remedies in RCW 49.58.060 and 49.58.070 for violations of this section. Recovery of any wages and interest must be calculated from the first date wages were owed to the employee.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. A new section is added to chapter 49.58 RCW to read as follows:

This chapter may be known and cited as the Washington equal pay and opportunities act."

On page 1, line 1 of the title, after "information;" strike the remainder of the title and insert "amending RCW 49.58.005; and adding new sections to chapter 49.58 RCW."

Senators Keiser and King spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking amendment no. 758 by Senator Keiser to Engrossed Substitute House Bill No. 1696.

The motion by Senator Keiser carried and striking amendment no. 758 was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1696 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1696 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

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

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

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Excused: Senator Takko

MOTION

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1696, 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.

On motion of Senator Liias, the appointments to the conference committee were confirmed by voice vote.

MESSAGE FROM THE HOUSE

MESSAGE FROM THE HOUSE

April 24, 2019

April 23, 2019

MR. PRESIDENT:

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1195 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Hudgins, Gregerson, Walsh and the same are herewith transmitted.

The House has adopted the report of the Conference Committee on SUBSTITUTE HOUSE BILL NO. 1155 and has passed the bill as recommended by the Conference Committee. and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

NONA SNELL, Deputy Chief Clerk

MOTION

REPORT OF THE CONFERENCE COMMITTEE

Substitute House Bill No. 1155

April 24, 2019

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Substitute House Bill No. 1155, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

On motion of Senator Liias, further consideration of Substitute House Bill No. 1195 was deferred and the bill held its place on the third reading calendar.

Strike everything after the enacting clause and insert the following:

MESSAGE FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12 RCW to read as follows:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1170 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Goodman, Griffey, Springer and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

(1) An employer shall provide employees with meal and rest periods as required by law, subject to the following:

MOTION

(a) Rest periods must be scheduled at any point during each work period during which the employee is required to receive a rest period;

On motion of Senator Liias, further consideration of Substitute House Bill No. 1170 was deferred and the bill held its place on the third reading calendar.

(b) Employers must provide employees with uninterrupted meal and rest breaks. This subsection (1)(b) does not apply in the case of:

MESSAGE FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 5370 and asks the Senate for a conference thereon. The Speaker has appointed the following members as Conferees: Representatives Fey, Orwall, Dent and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

(i) An unforeseeable emergent circumstance, as defined in RCW 49.28.130; or

(ii) A clinical circumstance, as determined by the employee, employer, or employer's designee, that may lead to a significant adverse effect on the patient's condition:

(A) Without the knowledge, specific skill, or ability of the employee on break; or

(B) Due to an unforeseen or unavoidable event relating to patient care delivery requiring immediate action that could not be planned for by an employer;

(c) For any rest break that is interrupted before ten complete minutes by an employer or employer's designee under the provisions of (b)(ii) of this subsection, the employee must be given an additional ten minute uninterrupted rest break at the earliest reasonable time during the work period during which the employee is required to receive a rest period. If the elements of this subsection are met, a rest break shall be considered taken for the purposes of the minimum wage act as defined by chapter 49.46 RCW.

MOTION

On motion of Senator Keiser, the Senate granted the request of the House for a conference on Substitute Senate Bill No. 5370 and the Senate amendment(s) thereto.

(2) The employer shall provide a mechanism to record when an employee misses a meal or rest period and maintain these records.

(3) For purposes of this section, the following terms have the following meanings:

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 5370 and the House amendment(s) there to: Senators Keiser, Saldaña and Warnick.

(a) "Employee" means a person who:

(i) Is employed by a health care facility;

(ii) Is involved in direct patient care activities or clinical services;

(iii) Receives an hourly wage or is covered by a collective

bargaining agreement; and

(iv) Is a licensed practical nurse or registered nurse licensed under chapter 18.79 RCW, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing assistant-certified as defined in RCW 18.88A.020.

(b) "Employer" means hospitals licensed under chapter 70.41 RCW, except that the following hospitals are excluded until July 1, 2021:

(i) Hospitals certified as critical access hospitals under 42 U.S.C. Sec. 1395i-4;

(ii) Hospitals with fewer than twenty-five acute care beds in operation; and

(iii) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals as of January 1, 2013, that: Have had less than one hundred fifty acute care licensed beds in fiscal year 2011; have a level III adult trauma service designation from the department of health as of January 1, 2014; and are owned and operated by the state or a political subdivision.

Sec. 2. RCW 49.28.130 and 2011 c 251 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.28.140 and 49.28.150 unless the context clearly requires otherwise.

(1)(a) "Employee" means a (~~licensed practical nurse or a registered nurse licensed under chapter 18.79 RCW~~) person who:

(i) ~~Is employed by a health care facility (who);~~

(ii) ~~Is involved in direct patient care activities or clinical services (and);~~

(iii) Receives an hourly wage or is covered by a collective bargaining agreement; and

(iv) Is either:

(A) A licensed practical nurse or registered nurse licensed under chapter 18.79 RCW; or

(B) Beginning July 1, 2020, a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a nursing assistant-certified as defined in RCW 18.88A.020.

(b) "Employee" ~~does not mean a person who:~~

(i) ~~Is employed by a health care facility as defined in subsection (3)(a)(v) of this section; and~~

(ii) Is a surgical technologist registered under chapter 18.215 RCW, a diagnostic radiologic technologist or cardiovascular invasive specialist certified under chapter 18.84 RCW, a respiratory care practitioner licensed under chapter 18.89 RCW, or a certified nursing assistant as defined in RCW 18.88A.020.

(2) "Employer" means an individual, partnership, association, corporation, the state, a political subdivision of the state, or person or group of persons, acting directly or indirectly in the interest of a health care facility.

(3)(a) "Health care facility" means the following facilities, or any part of the facility, including such facilities if owned and operated by a political subdivision or instrumentality of the state, that operate on a twenty-four hours per day, seven days per week basis:

(i) Hospices licensed under chapter 70.127 RCW;

(ii) Hospitals licensed under chapter 70.41 RCW, except that until July 1, 2021, the provisions of section 3, chapter . . . Laws of 2019 (section 3 of this act) do not apply to:

(A) Hospitals certified as critical access hospitals under 42

U.S.C. Sec. 1395i-4;

(B) Hospitals with fewer than twenty-five acute care beds in operation; and

(C) Hospitals certified by the centers for medicare and medicaid services as sole community hospitals as of January 1, 2013, that: Have had less than one hundred fifty acute care licensed beds in fiscal year 2011; have a level III adult trauma service designation from the department of health as of January 1, 2014; and are owned and operated by the state or a political subdivision;

(iii) Rural health care facilities as defined in RCW 70.175.020;

(iv) Psychiatric hospitals licensed under chapter 71.12 RCW;

or

(v) Facilities owned and operated by the department of corrections or by a governing unit as defined in RCW 70.48.020 in a correctional institution as defined in RCW 9.94.049 that provide health care services (~~(to inmates as defined in RCW 72.09.015)).~~)

(b) If a nursing home regulated under chapter 18.51 RCW or a home health agency regulated under chapter 70.127 RCW is operating under the license of a health care facility, the nursing home or home health agency is considered part of the health care facility for the purposes of this subsection.

(4) "Overtime" means the hours worked in excess of an agreed upon, predetermined, regularly scheduled shift within a twenty-four hour period not to exceed twelve hours in a twenty-four hour period or eighty hours in a consecutive fourteen-day period.

(5) "On-call time" means time spent by an employee who is not working on the premises of the place of employment but who is compensated for availability or who, as a condition of employment, has agreed to be available to return to the premises of the place of employment on short notice if the need arises.

(6) "Reasonable efforts" means that the employer, to the extent reasonably possible, does all of the following but is unable to obtain staffing coverage:

(a) Seeks individuals to volunteer to work extra time from all available qualified staff who are working;

(b) Contacts qualified employees who have made themselves available to work extra time;

(c) Seeks the use of per diem staff; and

(d) Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

(7) "Unforeseeable emergent circumstance" means (a) any unforeseen declared national, state, or municipal emergency; (b) when a health care facility disaster plan is activated; or (c) any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

Sec. 3. RCW 49.28.140 and 2002 c 112 s 3 are each amended to read as follows:

(1) No employee of a health care facility may be required to work overtime. Attempts to compel or force employees to work overtime are contrary to public policy, and any such requirement contained in a contract, agreement, or understanding is void.

(2) The acceptance by any employee of overtime is strictly voluntary, and the refusal of an employee to accept such overtime work is not grounds for discrimination, dismissal, discharge, or any other penalty, threat of reports for discipline, or employment decision adverse to the employee.

(3) This section does not apply to overtime work that occurs:

(a) Because of any unforeseeable emergent circumstance;

(b) Because of prescheduled on-call time, subject to the following:

(i) Mandatory prescheduled on-call time may not be used in

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lieu of scheduling employees to work regularly scheduled shifts when a staffing plan indicates the need for a scheduled shift; and (ii) Mandatory prescheduled on-call time may not be used to address regular changes in patient census or acuity or expected increases in the number of employees not reporting for predetermined scheduled shifts;

(c) When the employer documents that the employer has used reasonable efforts to obtain staffing. An employer has not used reasonable efforts if overtime work is used to fill vacancies resulting from chronic staff shortages; or

(d) When an employee is required to work overtime to complete a patient care procedure already in progress where the absence of the employee could have an adverse effect on the patient.

(4) An employee accepting overtime who works more than twelve consecutive hours shall be provided the option to have at least eight consecutive hours of uninterrupted time off from work following the time worked.

NEW SECTION. Sec. 4. This act takes effect January 1, 2020."

On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 49.28.130 and 49.28.140; adding a new section to chapter 49.12 RCW; and providing an effective date."

And the bill do pass as recommended by the conference committee.

Signed by Senators Dhingra and Van De Wege; Representatives Cody and Sells.

MOTION

Senator Dhingra moved that the Report of the Conference Committee on Substitute House Bill No. 1155 be adopted.

Senators Dhingra and Saldaña spoke in favor of passage of the motion.

Senators King, Padden, Walsh, Honeyford and Fortunato spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the Report of the Conference Committee on Substitute House Bill No. 1155 be adopted.

The motion by Senator Dhingra carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1155, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1155, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

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

Voting nay: Senators Bailey, Becker, Brown, Ericksen, Hawkins, Honeyford, King, Padden, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Takko

SUBSTITUTE HOUSE BILL NO. 1155, as recommended by

the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5276 with the following amendment(s): 5276-S2.E AMH ENGR H2883.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to:

(1) Authorize and establish a new licensing and regulatory program for hemp production in this state in accordance with the agriculture improvement act of 2018;

(2) Replace the industrial hemp research program in chapter 15.120 RCW, with the new licensing and regulatory program established in this chapter, and enable hemp growers licensed under the industrial hemp research program on the effective date of rules implementing this chapter and regulating hemp production, to transfer into the program created in this chapter; and

(3) Authorize the growing of hemp as a legal, agricultural activity in this state. Hemp is an agricultural product that may be legally grown, produced, processed, possessed, transferred, commercially sold, and traded. Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within the state, outside of this state, and internationally. Nothing in this chapter is intended to prevent or restrain commerce in this state involving hemp or hemp products produced lawfully under the laws of another state, tribe, or country.

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

(1) "Agriculture improvement act of 2018" means sections 7605, 10113, 10114, and 12619 of the agriculture improvement act of 2018, P.L. 115-334.

(2) "Crop" means hemp grown as an agricultural commodity.

(3) "Cultivar" means a variation of the plant *Cannabis sativa* L. that has been developed through cultivation by selective breeding.

(4) "Department" means the Washington state department of agriculture.

(5) "Hemp" means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(6)(a) "Industrial hemp" means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of 0.3 percent or less by dry weight that was grown under the industrial hemp research program as it existed on December 31, 2019.

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of "marijuana" as defined in RCW 69.50.101.

(7) "Postharvest test" means a test of delta-9 tetrahydrocannabinol concentration levels of hemp after being

harvested based on:

- (a) Ground whole plant samples without heat applied; or
- (b) Other approved testing methods.
- (8) "Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.
- (9) "Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp including hemp seed.

NEW SECTION. Sec. 3. (1) The department must develop an agricultural commodity program to replace the industrial hemp research pilot program in chapter 15.120 RCW, in accordance with the agriculture improvement act of 2018.

(2) The department has sole regulatory authority over the production of hemp and may adopt rules to implement this chapter. All rules relating to hemp, including any testing of hemp, are outside of the control and authority of the liquor and cannabis board.

(3) If the department adopts rules implementing this chapter that are effective by June 1, 2019, persons licensed to grow hemp under chapter 15.120 RCW may transfer into the regulatory program established in this chapter, and continue hemp production under this chapter. If the department adopts rules implementing this chapter that are effective after June 1, 2019, people licensed to grow hemp under chapter 15.120 RCW may continue hemp production under this chapter as of the effective date of the rules.

(4) Immediately upon the effective date of this section, and before the adoption of rules implementing this chapter, persons licensed to grow hemp under chapter 15.120 RCW may produce hemp in a manner otherwise consistent with the provisions of this chapter and the agriculture improvement act of 2018.

NEW SECTION. Sec. 4. (1) The department must develop the state's hemp plan to conform to the agriculture improvement act of 2018, to include consultation with the governor and the attorney general and the plan elements required in the agriculture improvement act of 2018.

(2) Consistent with subsection (1) of this section, the state's hemp plan must include the following elements:

(a) A practice for hemp producers to maintain relevant information regarding land on which hemp is produced, including a legal description of the land, for a period of not less than three calendar years;

(b) A procedure for testing, using postdecarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp, without the application of heat;

(c) A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this chapter, and products derived from such plants;

(d) A procedure for enforcement of violations of the plan and for corrective action plans for licensees as required under the agriculture improvement act of 2018;

(e) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify hemp is not produced in violation of this chapter; and

(f) A certification that the state has the resources and personnel to carry out the practices and procedures described in this section.

(3) The proposal for the state's plan may include any other practice or procedure established to the extent the practice or procedure is consistent with the agriculture improvement act of 2018.

(4) Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within this state, outside of this state, and internationally.

(5) The whole hemp plant may be used as food. The department

shall regulate the processing of hemp for food products that are allowable under federal law in the same manner as other food processing under chapters 15.130 and 69.07 RCW and may adopt rules as necessary to properly regulate the processing of hemp for food products including, but not limited to, establishing standards for creating hemp extracts used for food. The department shall not consider foods containing hemp to be adulterated when produced in compliance with state law and the rules adopted by the department. Nothing in this chapter authorizes the production of hemp food products that are not allowed under federal law.

NEW SECTION. Sec. 5. The department must develop a postharvest test protocol for testing hemp under this chapter that includes testing of whole plant samples or other testing protocol identified in regulations established by the United States department of agriculture, including the testing procedures for delta-9 tetrahydrocannabinol concentration levels of hemp produced by producers under the state plan.

NEW SECTION. Sec. 6. (1) The department must issue hemp producer licenses to applicants qualified under this chapter and the agriculture improvement act of 2018. The department may adopt rules pursuant to this chapter and chapter 34.05 RCW as necessary to license persons to grow hemp under a commercial hemp program.

(2) The plan must identify qualifications for license applicants, to include adults and corporate persons and to exclude persons with felony convictions as required under the agriculture improvement act of 2018.

(3) The department must establish license fees in an amount that will fund the implementation of this chapter and sustain the hemp program. The department may adopt rules establishing fees for tetrahydrocannabinol testing, inspections, and additional services required by the United States department of agriculture. License fees and any money received by the department under this chapter must be deposited in the hemp regulatory account created in section 8 of this act.

NEW SECTION. Sec. 7. A person producing hemp pursuant to this chapter must notify the department of the source of the hemp seed or clones solely for the purpose of maintaining a record of the sources of seeds and clones being used or having been used for hemp production in this state. Hemp seed is an agricultural seed.

NEW SECTION. Sec. 8. The hemp regulatory account is created in the custody of the state treasurer. All receipts from fees established under this chapter must be deposited into the account. Expenditures from the account may be used only for implementing this chapter. Only the director of the state department of agriculture or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 9. Washington State University may, within existing resources, develop and make accessible an internet-based application designed to assist hemp producers by providing regional communications concerning recommended planting times for hemp crops in this state.

NEW SECTION. Sec. 10. (1) There is no distance requirement, limitation, or buffer zone between any licensed hemp producer or hemp processing facility licensed or authorized under this chapter and any marijuana producer or marijuana processor licensed under chapter 69.50 RCW. No rule may establish such a distance requirement, limitation, or buffer zone without the evaluation of sufficient data showing impacts to either

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crop as a result of cross-pollination.

(2) Notwithstanding subsection (1) of this section, in an effort to prevent cross-pollination between hemp plants produced under this chapter and marijuana plants produced under chapter 69.50 RCW, the department, in consultation with the liquor and cannabis board, must review the state's policy regarding cross-pollination and pollen capture to ensure an appropriate policy is in place, and must modify policies or establish new policies as appropriate. Under any such policy, when a documented conflict involving cross-pollination exists between two farms or production facilities growing or producing hemp or marijuana, the farm or production facility operating first in time shall have the right to continue operating and the farm or production facility operating second in time must cease growing or producing hemp or marijuana, as applicable.

NEW SECTION. Sec. 11. (1) The department must use expedited rule making to adopt the state hemp plan submitted to the United States department of agriculture. As allowed under this section, rule making by the department to adopt the approved hemp plan qualifies as expedited rule making under RCW 34.05.353. Upon the submittal of the plan to the United States department of agriculture, the department may conduct initial expedited rule making under RCW 34.05.353 to establish rules to allow hemp licenses to be issued without delay.

(2) On the effective date of rules adopted by the department regulating hemp production under chapter 15.--- RCW (the new chapter created in section 17 of this act), a licensed hemp producer under this chapter may immediately produce hemp pursuant to chapter 15.--- RCW (the new chapter created in section 17 of this act) with all the privileges of a hemp producer licensed under chapter 15.--- RCW (the new chapter created in section 17 of this act).

Sec. 12. RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

(d) "CBD product" means any product containing or consisting of cannabidiol.

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

(f) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in ((RCW 45.120.010)) section 2 of this act.

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

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant,

depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

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

(2) The term does not include:

(i) a controlled substance;

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

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

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

(h) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

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

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

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

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

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

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

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

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

(r) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(s) "Immediate precursor" means a substance:

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

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

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

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

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

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

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

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

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

(x) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) ~~((Industrial hemp as defined in RCW 15.120.010))~~ Hemp or industrial hemp as defined in section 2 of this act, seeds used for licensed hemp production under chapter 15.--- RCW (the new chapter created in section 17 of this act).

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

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

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

(bb) "Marijuana products" means useable marijuana, marijuana

concentrates, and marijuana-infused products as defined in this section.

(cc) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

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

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

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

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

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

(ll) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an

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optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. RCW 69.50.204 and 2015 2nd sp.s. c 4 s 1203 are

each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxidine;

(29) Furethidine;

(30) Hydroxypethidine;

(31) Ketobemidone;

(32) Levomoramide;

(33) Levophenacetylmorphan;

(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);

(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(36) Morpheridine;

(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(38) Noracymethadol;

(39) Norlevorphanol;

(40) Normethadone;

(41) Norpipanone;

(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);

(44) Phenadoxone;

(45) Phenampromide;

- (46) Phenomorphan;
 (47) Phenoperidine;
 (48) Piritramide;
 (49) Proheptazine;
 (50) Properidine;
 (51) Propiram;
 (52) Racemoramide;
 (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-(~~propanamide~~) propanamide);
 (54) Tilidine;
 (55) Trimeperidine.
- (b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (1) Acetorphine;
 - (2) Acetyldihydrocodeine;
 - (3) Benzylmorphine;
 - (4) Codeine methylbromide;
 - (5) Codeine-N-Oxide;
 - (6) Cyprenorphine;
 - (7) Desomorphine;
 - (8) Dihydromorphine;
 - (9) Drotebanol;
 - (10) Etorphine, except hydrochloride salt;
 - (11) Heroin;
 - (12) Hydromorphenol;
 - (13) Methyldesorphine;
 - (14) Methyldihydromorphine;
 - (15) Morphine methylbromide;
 - (16) Morphine methylsulfonate;
 - (17) Morphine-N-Oxide;
 - (18) Myrophine;
 - (19) Nicocodeine;
 - (20) Nicomorphine;
 - (21) Normorphine;
 - (22) Pholcodine;
 - (23) Thebacon.
- (c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:
- (1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;
 - (2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;
 - (3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;
 - (4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;
 - (5) 2,5-dimethoxy-4-ethylamphetamine (DOET);
 - (6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;
 - (7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;
 - (8) 5-methoxy-3,4-methylenedioxy-amphetamine;

- (9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";
 - (10) 3,4-methylenedioxy amphetamine;
 - (11) 3,4-methylenedioxymethamphetamine (MDMA);
 - (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
 - (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy MDA;
 - (14) 3,4,5-trimethoxy amphetamine;
 - (15) Alpha-methyltryptamine: Other name: AMT;
 - (16) Bufotenine: Some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
 - (17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;
 - (18) Dimethyltryptamine: Some trade or other names: DMT;
 - (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
 - (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;
 - (21) Lysergic acid diethylamide;
 - (22) Marihuana or marijuana;
 - (23) Mescaline;
 - (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
 - (25) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));
 - (26) N-ethyl-3-piperidyl benzilate;
 - (27) N-methyl-3-piperidyl benzilate;
 - (28) Psilocybin;
 - (29) Psilocyn;
 - (30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the (~~(genus)~~ genera Cannabis (~~((cannabis plant))~~), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the genera Cannabis, (~~(species)~~) and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
 - ((#)) (A) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;
 - ((##)) (B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;
 - ((###)) (C) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; or
 - ((iv)) (D) That is chemically synthesized and either:
 - ((#)) (I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or
 - ((#)) (II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors;
- (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

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(ii) Hemp and industrial hemp, as defined in section 2 of this act, are excepted from the categories of controlled substances identified under this section:

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazoline;

(2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylamine;

(5) Methcathinone: Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+-)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazoline);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 14. RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended to read as follows:

Except as otherwise provided in this chapter, industrial hemp is an agricultural product that may be grown, produced, possessed, processed, and exchanged in the state solely and exclusively as part of an industrial hemp research program supervised by the department. Except when allowed under federal law, processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited.

NEW SECTION. Sec. 15. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2020:

(1) RCW 15.120.005 (Intent) and 2016 sp.s. c 11 s 1;

(2) RCW 15.120.010 (Definitions) and 2016 sp.s. c 11 s 2;

(3) RCW 15.120.020 (Industrial hemp—Agricultural product—Exclusively as part of industrial hemp research program) and 2019 c ... s 14 (section 14 of this act) & 2016 sp.s. c 11 s 3;

(4) RCW 15.120.030 (Rule-making authority) and 2016 sp.s. c 11 s 4;

(5) RCW 15.120.035 (Rule-making authority—Monetary penalties, license suspension or forfeiture, other sanctions—Rules to be consistent with section 7606 of federal agricultural act of 2014) and 2017 c 317 s 10;

(6) RCW 15.120.040 (Industrial hemp research program—Established—Licensure—Seed certification program—Permission/waiver from appropriate federal entity) and 2016 sp.s. c 11 s 5;

(7) RCW 15.120.050 (Application form—Fee—Licensure—Renewal—Record of license forwarded to county sheriff—Public disclosure exemption) and 2016 sp.s. c 11 s 6; and

(8) RCW 15.120.060 (Sales and transfers of industrial hemp produced for processing—Department and state liquor and cannabis board to study feasibility and practicality of implementing legislatively authorized regulatory framework) and 2017 c 317 s 9.

NEW SECTION. Sec. 16. Beginning on the effective date of this section:

(1) No law or rule related to certified or interstate hemp seeds applies to or may be enforced against a person with a license to produce or process hemp issued under this chapter or chapter 15.120 RCW; and

(2) No department or other state agency rule may establish or enforce a buffer zone or distance requirement between a person with a license or authorization to produce or process hemp under this chapter or chapter 15.120 RCW and a person with a license to produce or process marijuana issued under chapter 69.50 RCW. The department may not adopt rules without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

NEW SECTION. Sec. 17. Sections 1 through 11 and 16 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

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

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Ericksen moved that the Senate concur in the House

amendment(s) to Engrossed Second Substitute Senate Bill No. 5276.

Senator Ericksen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ericksen that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5276.

The motion by Senator Ericksen carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5276 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5276, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5276, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Takko

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5276, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Walsh: "Well, we have lost a lot of really great people around here this year and, last night, we lost one of the greatest. Sharon Hayward worked in the House for many, many years. She was Allen Hayward's wife and just one of the loveliest people you will ever meet. And I would hope that we can all recognize her with a little moment of silence on the floor today for her incredible public service in this place for many, many years. She passed away. Complications, and had brain cancer and she retired here quite a few years ago so I know a lot of the new members didn't know Sharon but, again, just one of the greatest public servants you will have ever met and I would just like to recognize her incredible service to this state with a little moment of silence."

MOMENT OF SILENCE

At the request of Senator Walsh, the senate rose and observed a moment of silence in remembrance of Mrs. Sharon Hayward, former Deputy Chief Clerk and long-time staff member of the House of Representatives, who passed away Tuesday, April 23.

MOTION

At 1:03 p.m., on motion of Senator Liias, the Senate adjourned until 11:00 o'clock a.m. Thursday, April 25, 2019.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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