
SEVENTY FOURTH DAY

House Chamber, Olympia, Thursday, March 24, 2011

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

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

MESSAGES FROM THE SENATE

March 23, 2011

MR. SPEAKER:

The President has signed ENGROSSED SUBSTITUTE HOUSE BILL 1846 and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 23, 2011

MR. SPEAKER:

The Senate has passed SUBSTITUTE SENATE BILL 5167 and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 23, 2011

MR. SPEAKER:

The Senate has passed SENATE JOINT MEMORIAL 8008 and the same is herewith transmitted.

Thomas Hoemann, Secretary

March 23, 2011

MR. SPEAKER:

The Senate has passed:

HOUSE BILL 1129

HOUSE BILL 1347

ENGROSSED HOUSE BILL 1357

and the same are herewith transmitted.

Thomas Hoemann, Secretary

INTRODUCTIONS AND FIRST READING

HB 2034 by Representatives Hudgins, Appleton, Dickerson, Hunt, Ryu and Goodman

AN ACT Relating to the reform and streamlining of the sentencing guidelines commission for the purpose of saving money; amending RCW 9.94A.860, 9.94A.480, 13.50.010, 9.94A.74501, 9.94A.855, 9.94A.870, 9A.52.025, 10.98.140, 10.98.160, and 72.66.016; reenacting and amending RCW 70.96A.350; adding a new section to chapter 9.94A RCW; and repealing RCW 13.40.005, 9.94A.850, 9.94A.863, 9.94A.8672, 9.94A.8673, 9.94A.8675, and 72.09.350.

Referred to Committee on State Government & Tribal Affairs.

HB 2035 by Representatives Hudgins, Hunt and Ryu

AN ACT Relating to effectuating financial stability for the public printer; amending RCW 43.78.030, 43.78.070, 43.78.080, 43.78.100, 43.78.110, 28A.300.040, and 28B.10.029; adding a new section to chapter 43.78 RCW; adding a new section to chapter 43.41 RCW; adding a new section to chapter 43.09 RCW; creating new sections; and repealing RCW 1.08.039, 15.24.085, 15.62.190, 16.67.170, 43.78.020, and 43.78.090.

Referred to Committee on State Government & Tribal Affairs.

SSB 5167 by Senate Committee on Ways & Means (originally sponsored by Senators Schoesler, Murray, Honeyford, Pridemore, Kilmer and Tom)

AN ACT Relating to tax statute clarifications and technical corrections, including for the purposes of local rental car taxes; amending RCW 82.04.290, 82.04.645, 82.08.0297, 82.12.0297, 84.36.381, 84.36.385, 82.14.049, 35.102.150, 82.04.460, 82.08.806, 82.08.820, 82.08.820, 82.32.665, and 82.32.117; amending 2010 1st sp.s. c 23 s 101 (uncodified); reenacting and amending RCW 82.04.050 and 82.32.330; reenacting RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.022, 82.12.805, and 82.32.590; creating a new section; repealing RCW 82.32.115; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SJM 8008 by Senators Brown, Hewitt, Kohl-Welles, Holmquist Newbry, Conway, Parlette, Fraser, Kilmer, White and Hatfield

Requesting that the United States Department of Labor provide Washington with unemployment tax relief equal to any benefit provided to other states.

Referred to Committee on Labor & Workforce Development.

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

REPORTS OF STANDING COMMITTEES

March 23, 2011

HB 1175 Prime Sponsor, Representative Clibborn: Making 2011-13 transportation appropriations. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chair; Billig, Vice Chair; Lias,

Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Eddy; Finn; Jinkins; Johnson; Klippert; Kristiansen; Ladenburg; McCune; Moeller; Morris; Moscoso; Reykdal; Rivers; Rodne; Rolfes; Ryu; Takko; Upthegrove and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Overstreet and Shea.

March 21, 2011

HB 1277 Prime Sponsor, Representative Cody: Concerning oversight of licensed or certified long-term care settings for vulnerable adults. Reported by Committee on Ways & Means

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle; Cody; Dickerson; Haigh; Hudgins; Hunt; Kagi; Kenney; Ormsby; Pettigrew; Seaquist; Springer and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler; Haler; Hinkle; Parker; Ross; Schmick and Wilcox.

Passed to Committee on Rules for second reading.

March 21, 2011

HB 1387 Prime Sponsor, Representative Blake: Increasing revenue to the state wildlife account. Reported by Committee on Ways & Means

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle; Cody; Dickerson; Haigh; Hudgins; Hunt; Kagi; Kenney; Ormsby; Pettigrew; Ross; Seaquist; Springer and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler; Haler; Hinkle; Parker; Schmick and Wilcox.

Passed to Committee on Rules for second reading.

March 21, 2011

HB 1738 Prime Sponsor, Representative Cody: Changing the designation of the medicaid single state agency. Reported by Committee on Ways & Means

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Carlyle; Cody; Dickerson; Haigh; Hudgins; Hunt; Kagi; Kenney; Ormsby; Pettigrew; Seaquist; Springer and Sullivan.

MINORITY recommendation: Do not pass. Signed by Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Chandler; Haler; Hinkle; Parker; Ross; Schmick and Wilcox.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5011 Prime Sponsor, Senator White: Concerning the victimization of homeless persons. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

Passed to Committee on Rules for second reading.

March 21, 2011

ESSB 5020 Prime Sponsor, Committee on Human Services & Corrections: Protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Jinkins, Vice Chair; Hinkle, Assistant Ranking Minority Member; Bailey; Clibborn; Green; Harris; Kelley; Moeller and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representative Schmick, Ranking Minority Member.

Passed to Committee on Rules for second reading.

March 21, 2011

ESSB 5021 Prime Sponsor, Committee on Government Operations, Tribal Relations & Elections: Enhancing election campaign disclosure requirements to promote greater transparency for the public. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that timely and full disclosure of election campaign funding and expenditures is essential to a well-functioning democracy in which Washington's voters can judge for themselves what is appropriate based on ideologies, programs, and policies. Long-term voter engagement and confidence depends on the public knowing who is funding the multiple and targeted messages distributed during election campaigns.

The legislature also finds that recent events have revealed the need for refining certain elements of our state's election campaign finance laws that have proven inadequate in preventing efforts to hide information from voters. The legislature intends, therefore, to promote greater transparency for the public by enhancing penalties

for violations; regulating the formation of, and contributions between, political committees; and reducing the expenditure thresholds for purposes of mandatory electronic filing and disclosure.

Sec. 2. RCW 42.17A.005 and 2010 c 204 s 101 are each reenacted and amended to read as follows:

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

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has been recognized as a minor political party by the secretary of state;

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(8) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(9) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(10) "Commission" means the agency established under RCW 42.17A.100.

(11) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind. For the purpose of compliance with RCW 42.17A.710, "compensation" does not include per diem allowances or

other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(12) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(13)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17A.205; and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (13)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(14) "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

(15) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(16) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters. An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(17) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(18) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(19)(a) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

~~((a))~~ (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

~~((b))~~ (ii) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

~~((c))~~ (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value of ~~((five))~~ one thousand dollars or more.

~~((d))~~ (b) "Electioneering communication" does not include:

~~((a))~~ (i) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

~~((b))~~ (ii) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

~~((c))~~ (iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

~~((i))~~ (A) Of primary interest to the general public;

~~((ii))~~ (B) In a news medium controlled by a person whose business is that news medium; and

~~((iii))~~ (C) Not a medium controlled by a candidate or a political committee;

~~((d))~~ (iv) Slate cards and sample ballots;

~~((e))~~ (v) Advertising for books, films, dissertations, or similar works ~~((i))~~ (A) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or ~~((ii))~~ (B) written about a candidate;

~~((f))~~ (vi) Public service announcements;

~~((g))~~ (vii) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

~~((h))~~ (viii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

~~((i))~~ (ix) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

~~((21))~~ (20) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. "Expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

~~((22))~~ (21) "Final report" means the report described as a final report in RCW 42.17A.235(2).

~~((23))~~ (22) "General election" for the purposes of RCW 42.17A.405 means the election that results in the election of a person to a state or local office. It does not include a primary.

~~((24))~~ (23) "Gift" has the definition in RCW 42.52.010.

~~((25))~~ (24) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

~~((26))~~ (25) "Incumbent" means a person who is in present possession of an elected office.

~~((27))~~ (26) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for

political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of eight hundred dollars or more. A series of expenditures, each of which is under eight hundred dollars, constitutes one independent expenditure if their cumulative value is eight hundred dollars or more.

~~((28))~~ (27)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

~~((29))~~ (28) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

~~((30))~~ (29) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((31))~~ (30) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

~~((32))~~ (31) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

~~((33))~~ (32) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

~~((34))~~ (33) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

~~((35))~~ (34) "Participate" means that, with respect to a particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate before contributions are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed before a contribution is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

~~((36))~~ (35) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

~~((37))~~ (36) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((38))~~ (37) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((39))~~ (38) "Primary" for the purposes of RCW 42.17A.405 means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~((40))~~ (39) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((41))~~ (40) "Public record" has the definition in RCW 42.56.010.

~~((42))~~ (41) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~((43))~~ (42)(a) "Sponsor" for purposes of an electioneering communications, independent expenditures, or political advertising~~((43))~~ means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(b) "Sponsor," for purposes of a political committee, means any person, except an authorized committee, to whom any of the following applies:

(i) The committee receives eighty percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(ii) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(43) "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

(44) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(45) "State official" means a person who holds a state office.

(46) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee

that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17A.255.

(47) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17A.210, to perform the duties specified in that section.

Sec. 3. RCW 42.17A.205 and 2010 c 205 s 1 and 2010 c 204 s 402 are each reenacted and amended to read as follows:

(1) Every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

- (a) The name and address of the committee;
- (b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;
- (c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;
- (d) The name and address of its treasurer and depository;
- (e) A statement whether the committee is a continuing one;
- (f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;
- (g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;
- (h) What distribution of surplus funds will be made, in accordance with RCW 42.17A.430, in the event of dissolution;
- (i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17A.235;
- (j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;
- (k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and

(l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) No two political committees may have the same name.

(4) Any material change in information previously submitted in a statement of organization shall be reported to the commission within the ten days following the change.

(5) As used in this section, the "name" of a sponsored committee must include the name of the person that is the sponsor of the committee. If more than one person meets the definition of sponsor, the name of the committee must include the name of at least one sponsor, but may include the names of other sponsors. A person may sponsor only one political committee for the same elected office or same ballot measure per election cycle.

Sec. 4. RCW 42.17A.245 and 2010 c 204 s 410 are each amended to read as follows:

(1) Each candidate or political committee that expended ~~((ten))~~ five thousand dollars or more in the preceding year or expects to expend ~~((ten))~~ five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this

chapter by the electronic alternative provided by the commission under RCW 42.17A.055. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

(2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

NEW SECTION. Sec. 5. A new section is added to chapter 42.17A RCW to read as follows:

A political committee may make a contribution to another political committee only when the contributing political committee has received contributions of ten dollars or more each from at least ten persons registered to vote in Washington state.

Sec. 6. RCW 42.17A.750 and 2010 c 204 s 1001 are each amended to read as follows:

(1) In addition to the penalties in subsection (2) of this section, and any other remedies provided by law, one or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

~~((4))~~ (a) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of that election may be held void and a special election held within sixty days of the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

~~((2))~~ (b) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying. The imposition of a sanction shall not excuse the lobbyist from filing statements and reports required by this chapter.

~~((3))~~ (c) A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each violation. However, a person or entity who violates RCW 42.17A.405 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

~~((4))~~ (d) A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each delinquency continues.

~~((5))~~ (e) A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

~~((6))~~ (f) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

(2) The commission may refer the following violations for criminal prosecution:

(a) A person who, with actual malice, violates a provision of this chapter is guilty of a misdemeanor under chapter 9.92 RCW;

(b) A person who, within a five-year period, with actual malice, violates three or more provisions of this chapter is guilty of a gross misdemeanor under chapter 9.92 RCW; and

(c) A person who, with actual malice, procures or offers any false or forged document to be filed, registered, or recorded with the commission under this chapter is guilty of a class C felony under chapter 9.94A RCW.

Sec. 7. RCW 42.17A.755 and 2010 c 204 s 1002 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such a determination.

(2) The commission, in cases where it chooses to determine whether an actual violation has occurred, shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW, to make a determination. Any order that the commission issues under this section shall be pursuant to such a hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17A.105.

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17A.750 ~~((2) through (5))~~ (1) (b) through (c). ~~((No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed four thousand two hundred))~~ The commission may assess a penalty in an amount not to exceed ten thousand dollars.

(5) The commission has the authority to waive a fine for a first-time violation. A second violation of the same rule by the same person or individual, regardless if the person or individual committed the violation for a different political committee, shall result in a fine. Succeeding violations of the same rule shall result in successively increased fines.

(6) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17A.760.

NEW SECTION. Sec. 8. This act takes effect January 1, 2012.

NEW SECTION. Sec. 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Hunt, Chair; Appleton, Vice Chair; Darneille; Dunshee; Hurst; McCoy and Miloscia.

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

Referred to Committee on General Government Appropriations & Oversight.

March 21, 2011

SSB 5025 Prime Sponsor, Committee on Human Services & Corrections: Concerning making requests by or on behalf of an inmate under the public records act ineligible for penalties. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass. Signed by Representatives Hunt, Chair; Appleton, Vice Chair; Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander; Condotta; Darneille; Dunshee; Hurst; McCoy and Miloscia.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5044 Prime Sponsor, Senator Rockefeller: Concerning the tax preference review process. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hudgins; Hunt; Kagi; Kenney; Ormsby; Parker; Ross; Schmick; Seaquist; Springer; Sullivan and Wilcox.

Passed to Committee on Rules for second reading.

March 22, 2011

ESSB 5105 Prime Sponsor, Committee on Human Services & Corrections: Addressing the conditional release of persons committed as criminally insane to their county of origin. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton; Goodman; Hope; Kirby; Moscoso and Ross.

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

Passed to Committee on Rules for second reading.

March 21, 2011

ESSB 5122 Prime Sponsor, Committee on Health & Long-Term Care: Making the necessary changes for implementation of the affordable care act in Washington state. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Clibborn; Green; Kelley; Moeller and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Bailey and Harris.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5141 Prime Sponsor, Senator Rockefeller: Limiting the issuance of motorcycle instruction permits. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.510 and 2002 c 352 s 17 are each amended to read as follows:

(1) **Motorcycle instruction permit.** A person holding a valid driver's license who wishes to learn to ride a motorcycle may apply

for a motorcycle instruction permit. The department may issue a motorcycle instruction permit after the applicant has successfully passed all parts of the motorcycle examination other than the driving test. The director shall collect a fee of fifteen dollars for the motorcycle instruction permit or renewal, and deposit the fee in the motorcycle safety education account of the highway safety fund.

(2) **Effect of motorcycle instruction permit.** A person holding a motorcycle instruction permit may drive a motorcycle upon the public highways if the person has immediate possession of the permit and a valid driver's license. An individual with a motorcyclist's instruction permit may not carry passengers and may not operate a motorcycle during the hours of darkness.

(3) **Term of motorcycle instruction permit.** A motorcycle instruction permit is valid for ninety days from the date of issue.

(a) The department may issue one additional ninety-day permit.

(b) The department may issue a third motorcycle instruction permit (if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency) upon presentation of documented evidence that the permittee is enrolled in a motorcycle skills education program as authorized in RCW 46.81A.020 with a class start date prior to the expiration of the third permit. The department may not issue more than three motorcycle instruction permits to an applicant within a five-year period.

Correct the title.

Signed by Representatives Clibborn, Chair; Billig, Vice Chair; Lias, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel; Asay; Eddy; Finn; Fitzgibbon; Jinkins; Johnson; Klippert; Kristiansen; Ladenburg; McCune; Moeller; Morris; Moscoso; Reykdal; Rivers; Rodne; Rolfes; Ryu; Shea; Takko; Upthegrove and Zeiger.

MINORITY recommendation: Without recommendation.
Signed by Representative Overstreet.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5161 Prime Sponsor, Senator Fain: Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hudgins; Hunt; Kagi; Kenney; Ormsby; Parker; Ross; Schmick; Seaquist; Springer; Sullivan and Wilcox.

Passed to Committee on Rules for second reading.

March 21, 2011

2ESSB 5171 Prime Sponsor, Committee on Government Operations, Tribal Relations & Elections: Facilitating voting for service and overseas voters. Reported by Committee on State Government & Tribal Affairs

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic (~~facsimile~~) transmissions of the following documents:

- (1) Declarations of candidacy;
- (2) County canvass reports;
- (3) Voters' pamphlet statements;
- (4) Arguments for and against ballot measures that will appear in a voters' pamphlet;
- (5) Requests for recounts;
- (6) Certification of candidates and measures by the secretary of state;
- (7) Direction by the secretary of state for the conduct of a (~~mandatory~~) recount;
- (8) Requests for (~~absentee~~) ballots;
- (9) Any other election related document authorized by rule adopted by the secretary of state under RCW (~~29A.04.610~~) 29A.04.611.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

~~(If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule.)~~ The secretary may by rule require that the original of any document, a copy of which is filed by (~~facsimile~~) electronic transmission under this section, also be filed by a deadline established by the secretary by rule.

Sec. 2. RCW 29A.04.311 and 2006 c 344 s 1 are each amended to read as follows:

~~(Nominating)~~ Primaries for general elections to be held in November, and the election of precinct committee officers, must be held on the (~~third~~) first Tuesday of the preceding August.

Sec. 3. RCW 29A.04.321 and 2009 c 413 s 2 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may call a special county election by presenting a resolution to the county auditor prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

(a) The second Tuesday in February;

(b) The third Tuesday in April until January 1, 2013;

(c) The fourth Tuesday in April on or after January 1, 2013;

~~((e))~~ (d) The day of the primary as specified by RCW 29A.04.311; or

~~((d))~~ (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~((and (b)))~~ through (c) of this section must be presented to the county auditor at least ~~((forty-five))~~ forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)~~((e)-(f))~~ (d) of this section must be presented to the county auditor ~~((at least eighty-four days prior to the election date))~~ no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to the dates set forth in subsection (2)(a) through ~~((d))~~ (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections ~~((except for those elections held pursuant to a home rule charter adopted under Article XI, section 4 of the state Constitution))~~. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

Sec. 4. RCW 29A.04.330 and 2009 c 413 s 4, 2009 c 144 s 3, and 2009 c 413 s 3 are each reenacted and amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(a) Elections for the recall of any elective public officer;

(b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW; and

(d) Special flood control districts consisting of three or more counties.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, may call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

(a) The second Tuesday in February;

(b) The third Tuesday in April until January 1, 2013;

(c) The fourth Tuesday in April on or after January 1, 2013;

~~((e))~~ (d) The day of the primary election as specified by RCW 29A.04.311; or

~~((d))~~ (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~((and (b)))~~ through (c) of this section must be presented to the county auditor at least ~~((forty-five))~~ forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)~~((e)-(f))~~ (d) of this section must be presented to the county auditor ~~((at least eighty-four days prior to the election date))~~ no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to subsection (2)(a) through ~~((d))~~ (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2)~~((e) and)~~ (d) and (e) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

Sec. 5. RCW 29A.16.040 and 2004 c 266 s 10 are each amended to read as follows:

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct or whether the precinct is a vote by mail precinct.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection (5) of this section, no precinct ~~((boundaries))~~ changes may be ~~((changed))~~ made during the period starting ~~((on the thirtieth))~~ fourteen days prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters. The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

(4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

(6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this

subsection may be construed as altering the vote tallying requirements of RCW 29A.60.230.

Sec. 6. RCW 29A.24.040 and 2006 c 344 s 5 are each amended to read as follows:

A candidate may file his or her declaration of candidacy for an office by electronic means on a system specifically designed and authorized by a filing officer to accept filings.

(1) Filings that are received electronically must capture all information specified in RCW 29A.24.031 (1) through (4).

(2) Electronic filing may begin at 9:00 a.m. the first ~~(Monday in June)~~ day of the filing period and continue through 4:00 p.m. the ~~((following Friday))~~ last day of the filing period.

~~((3) In case of special filing periods established in this chapter, electronic filings may be accepted beginning at 9:00 a.m. on the first day of the special filing period through 4:00 p.m. the last day of the special filing period.))~~

Sec. 7. RCW 29A.24.050 and 2006 c 344 s 6 are each amended to read as follows:

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer ~~((no earlier than the first Monday in June))~~ beginning the Monday two weeks before Memorial day and ~~((no later than))~~ ending the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

Sec. 8. RCW 29A.24.131 and 2004 c 271 s 115 are each amended to read as follows:

A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the ~~((Thursday))~~ Monday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. ~~((The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the ballots for that precinct have not been printed. The filing officer may permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary ballots for that city, town, or special district have not been ordered.))~~ No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

Sec. 9. RCW 29A.24.141 and 2004 c 271 s 162 are each amended to read as follows:

A void in candidacy ~~((for a nonpartisan office))~~ occurs when an election ~~((for such office, except for the short term.))~~ has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

Sec. 10. RCW 29A.24.171 and 2006 c 344 s 7 are each amended to read as follows:

~~((Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be~~

~~provided by law whenever before the eleventh Tuesday prior to a primary;~~

~~(1) A void in candidacy occurs;~~

~~(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or~~

~~(3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified. Candidacies validly filed within said three day period shall appear on the ballot as if made during the earlier filing period.))~~

(1) If, prior to the first day of the regular filing period, a vacancy occurs in an office that is not scheduled to appear on the general election ballot, leaving an unexpired term for which a successor must be elected at the next general election, filings for that office shall be accepted during the regular filing period. The filing officer shall provide notice of the vacancy and filing period to newspapers, radio, and television in the county, and online. The position shall appear on the primary and general election ballots unless no primary is required or unless a candidate for superior court judge is entitled to a certificate of election pursuant to Article 4, section 29 of the state Constitution.

(2) If, on the first day of the regular filing period or later, a vacancy occurs in an office that is not scheduled to appear on the general election ballot, leaving an unexpired term, the election of the successor shall occur at the next succeeding general election that the office is allowed by law to have an election.

Sec. 11. RCW 29A.24.181 and 2006 c 344 s 8 are each amended to read as follows:

~~((Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction)))~~ (1) If a void in candidacy occurs following the regular filing period and deadline to withdraw, but prior to the day of the primary, filings for that office shall be reopened for a period of three normal business days, such three-day period to be fixed by the ((election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

~~(1) A void in candidacy for such nonpartisan office occurs on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election; or~~

~~(2) A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period immediately following the last day allotted for a candidate to withdraw; or~~

~~(3) A vacancy occurs in any nonpartisan office on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.~~

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected.)) filing officer. The filing officer shall provide notice of the special filing period to newspapers, radio, and television in the county, and online. The candidate receiving a plurality of the votes cast for that office in the general election is deemed elected.

(2) This section does not apply to voids in candidacy in the office of precinct committee officer, which are filled by appointment pursuant to RCW 29A.28.071.

Sec. 12. RCW 29A.24.191 and 2006 c 344 s 9 are each amended to read as follows:

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when(=

~~(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the eleventh Tuesday prior to a primary, public filings and the primary~~

~~being an indispensable phase of the election process for such offices;~~
~~(2) Except as otherwise specified in RCW 29A.24.181, a~~
~~nominee for judge of the superior court entitled to a certificate of~~
~~election pursuant to Article 4, section 29, Amendment 41 of the state~~
~~Constitution dies or is disqualified on or after the eleventh Tuesday~~
~~prior to a primary;~~

~~(3) In other elections for nonpartisan office)) a void in candidacy~~
~~occurs ((or a vacancy occurs involving an unexpired term to be filled~~
~~on or after the eleventh Tuesday prior to an election)) following the~~
~~special three day filing period required by RCW 29A.24.181.~~

Sec. 13. RCW 29A.24.311 and 2004 c 271 s 117 are each amended to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day ((before the primary or election)) ballots must be mailed according to RCW 29A.40.070. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29A.24.091.

Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by major political parties pursuant to RCW 29A.28.021 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if the manner in which the write-in is done does not make the office or position clear.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29A.24.031. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

Sec. 14. RCW 29A.28.041 and 2006 c 344 s 12 are each amended to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the ((special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating major political party candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists)) primary at least seventy days after issuance of the writ, and fixing a date for the election at least seventy days after the date of the primary. If the vacancy is in the office of

United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than ~~((six)) eight~~ months before a state general election and before the ~~((second Friday following the))~~ close of the filing period for that general election, the special primary, special vacancy election, and minor party and independent candidate nominating conventions must be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the ~~((second Friday following the))~~ close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. ~~((The last day of the filing period shall not be later than the sixth Tuesday before the primary at which major political party candidates are to be nominated.))~~ The names of major political party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of RCW 29A.20.131 do not apply to a minor political party or independent candidate convention held under this subsection.

(5) If the vacancy occurs later than the ~~((second Friday following the))~~ close of the filing period, a special primary~~((special))~~ and vacancy election~~((and the minor party and independent candidate conventions))~~ to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

Sec. 15. RCW 29A.36.010 and 2005 c 2 s 12 are each reenacted and amended to read as follows:

~~((On or before the day following the last day allowed for candidates to withdraw under RCW 29A.24.130))~~ Not later than the Tuesday following the regular filing period, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party preference or independent designation as shown on filed declarations.

Sec. 16. RCW 29A.40.070 and 2006 c 344 s 13 are each amended to read as follows:

(1) Except where a recount or litigation ~~((under RCW 29A.68.011))~~ is pending, the county auditor ~~((shall have sufficient absentee ballots available for absentee voters of that county, other than overseas voters and service voters, at least twenty days before any primary, general election, or special election. The county auditor))~~ must mail ~~((absentee))~~ ballots to each voter ~~((for whom the county auditor has received a request nineteen days before the primary or election))~~ at least eighteen days before ~~((the))~~ each primary or election, and as soon as possible for all subsequent registration changes. ~~((For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days)).~~

(2) ~~((At least thirty days before any primary, general election, or special election, the county auditor shall mail ballots to all overseas and service voters.))~~ Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each special election and at least forty-five days before each primary or general election. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each request for a replacement ballot.

~~(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots ((prescribed in subsection (1) of this section were available and)) were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.~~

~~((4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.~~

~~(5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.~~

~~(6)) Failure to ((have absentee ballots available and mailed)) mail ballots as prescribed in ((subsection (1) of)) this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.~~

Sec. 17. RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return ~~((#))~~ the ballot to the county auditor.

(2) The ~~((instructions that accompany a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the voter reciting his or her qualifications and stating that he or she))~~ voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election ~~((, together with a summary of the penalties for any violation of any of the provisions of this chapter))~~. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and ~~((, except as otherwise provided by law,))~~ it is illegal to cast a ballot or sign a return envelope on behalf of another voter. The ~~((return envelope must provide space for the))~~ voter ~~((#))~~ must indicate the date on which the ballot was voted and ~~((for the voter to))~~ sign the ~~((#))~~ declaration. ~~((#))~~ The ballot materials must also contain a space so that the voter may include a telephone number. ~~((A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope may provide secrecy for the voter's signature and optional telephone number.))~~

(3) For overseas and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor ~~((by whom it was issued))~~ no later than 8:00 p.m. the

day of the election or primary, or ~~((attach sufficient first class postage, if applicable, and))~~ mail the ballot to the ~~((appropriate))~~ county auditor with a postmark no later than the day of the election or primary ~~((for which the ballot was issued.~~ If the county auditor chooses to forward ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed)). Service and overseas voters must be provided with instructions and a secrecy cover sheet for returning the ballot and signed declaration by fax or e-mail. A voted ballot and signed declaration returned by fax or e-mail must be received by 8:00 p.m. on the day of the election or primary.

Sec. 18. RCW 29A.40.110 and 2009 c 369 s 40 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received ~~((absentee))~~ return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until ~~((after 8:00 p.m. of the day of the primary or election))~~ processing. ~~((Absentee ballots that are to be tabulated on an electronic vote tallying system))~~ Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) ~~((Before opening a returned absentee ballot,))~~ The canvassing board, or its designated representatives, shall examine the postmark ((; statement)) on the return envelope and signature on the ((return envelope that contains the security envelope and absentee ballot)) declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ((return envelope)) ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. ~~((For any absentee ballot,))~~ A variation between the signature of the voter on the ((return envelope)) ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ~~((For registered voters casting absentee ballots))~~ If the postmark is missing or illegible, the date on the ((return envelope)) ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ((absentee)) ballot ((if the postmark is missing or is illegible)). For overseas voters and service voters, the date on the ((return envelope)) declaration to which the voter has attested determines the validity, as to the time of voting, for that ((absentee)) ballot. Any overseas voter or service voter may return the signed declaration and voted ballot by fax or e-mail by 8:00 p.m. on the day of the primary or election, and the county auditor must use established procedures to maintain the secrecy of the ballot.

Sec. 19. RCW 29A.56.030 and 2006 c 344 s 15 are each amended to read as follows:

The name of any candidate for a major political party nomination for president of the United States shall be printed on the presidential preference primary ballot of a major political party only:

(1) By direction of the secretary of state, who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

(2) If members of the political party of the candidate have presented a petition for nomination of the candidate that has attached to the petition a sheet or sheets containing the signatures of at least one thousand registered voters who declare themselves in the petition as being affiliated with the same political party as the presidential candidate. The petition shall be filed with the secretary of state not later than ~~((sixty))~~ seventy-five days before the presidential preference primary. The signature sheets shall also contain the residence address and name or number of the precinct of each registered voter whose signature appears thereon and shall be certified in the manner prescribed in RCW 29A.72.230 and 29A.72.240.

The secretary of state shall place the name of the candidate on the ballot unless the candidate, at least ~~((fifty-two))~~ sixty-seven days before the presidential preference primary, executes and files with the secretary of state an affidavit stating without qualification that he or she is not now and will not become a candidate for the office of president of the United States at the forthcoming presidential election. The secretary of state shall certify the names of all candidates who will appear on the presidential preference primary ballot to the respective county auditors on or before the fourth Tuesday in April of each presidential election year.

Sec. 20. RCW 29A.60.190 and 2006 c 344 s 16 are each amended to read as follows:

(1) Except as provided by subsection ~~((3))~~ (2) of this section, ~~((fifteen))~~ fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. The county canvassing board must complete the canvass and certify the results of the April 17, 2012, special election ten days after election day. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

~~((2))~~ (At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.
~~((3))~~ On or before the thirtieth day after an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, the canvassing board shall complete the canvass and certify the results.

Sec. 21. RCW 29A.60.190 and 2006 c 344 s 17 are each amended to read as follows:

~~((1))~~ Fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

~~((2))~~ (At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.)

Sec. 22. RCW 29A.60.240 and 2003 c 111 s 1524 are each amended to read as follows:

The secretary of state shall, as soon as possible but in any event not later than ~~((the third Tuesday))~~ seventeen days following the primary, canvass and certify the returns of all primary elections as to candidates for state offices, United States senators and representatives in Congress, and all other candidates whose district extends beyond the limits of a single county.

Sec. 23. RCW 29A.64.011 and 2004 c 271 s 177 are each amended to read as follows:

An officer of a political party or any person for whom votes were cast in a primary who ~~((was not declared nominated))~~ did not qualify for the general election may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for ~~((nomination to))~~ that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount must be filed within ~~((three))~~ two business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

Sec. 24. RCW 29A.64.030 and 2005 c 243 s 20 are each amended to read as follows:

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW 29A.64.081.

The county canvassing board shall determine the date, time, and place or places at which the recount will be conducted. Not less than ~~((two days))~~ one day before the date of the recount, the county auditor shall ~~((mail a notice of the time and place of the recount to))~~ notify the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office of the date, time, and place of the recount. ~~((The county auditor shall also notify the affected parties by either telephone, fax, e mail, or other electronic means at the time of mailing. At least three attempts must be made over a two day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response indicating that the notice has been received.))~~ Each person entitled to receive notice of

the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

Sec. 25. RCW 29A.68.011 and 2007 c 374 s 3 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the official certification of the election.

An affidavit of an elector under subsections (1) and (3) of this section when relating to a primary election must be filed with the appropriate court no later than ~~((the second Friday))~~ two days following the closing of the filing period ~~((for nominations))~~ for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

Sec. 26. RCW 29A.76.010 and 2003 c 111 s 1901 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation, county, or district shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within ~~((forty-five))~~ fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

Sec. 27. RCW 42.12.040 and 2006 c 344 s 29 and 2005 c 2 s 15 are each reenacted and amended to read as follows:

(1) If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the ~~((eleventh Tuesday prior to the primary for the next general election following the occurrence of the vacancy))~~ first day of the regular filing period, the position must be open for filing during the regular filing period as provided in RCW 29A.24.171 and a successor shall be elected ~~((to that office at that))~~ at the general election. Except during the last year of the term of office, if such a vacancy occurs on or after the ~~((eleventh Tuesday prior to the primary for that general election))~~ first day of the regular filing period, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

(2) If a vacancy occurs in any legislative office or in any partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW 29A.04.133 and shall continue through the term for which he or she was elected.

Sec. 28. RCW 42.12.070 and 1994 c 223 s 1 are each amended to read as follows:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in (~~RCW 29.15.190 and 29.21.410~~) chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected (~~(that occurs twenty-eight or more days after the occurrence of the vacancy)~~). If needed, special filing periods shall be authorized as provided in (~~RCW 29.15.170 and 29.15.180~~) chapter 29A.24 RCW for qualified persons to file for the vacant office. A primary shall be held to (~~(nominate)~~) qualify candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW (~~(29.01.135)~~) 29A.04.133 and shall service both the remainder of the unexpired term and the succeeding term.

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

(1) RCW 29A.04.310 (Primaries) and 2005 c 2 s 8, 2003 c 111 s 143, 1977 ex.s. c 361 s 29, 1965 ex.s. c 103 s 6, & 1965 c 9 s 29.13.070;

(2) RCW 29A.24.151 (Notice of void in candidacy) and 2004 c 271 s 163;

(3) RCW 29A.24.161 (Filings to fill void in candidacy--How made) and 2004 c 271 s 164;

(4) RCW 29A.36.011 (Certifying primary candidates) and 2004 c 271 s 124; and

(5) RCW 29A.40.150 (Overseas, service voters) and 2009 c 415 s 12, 2006 c 206 s 7, 2005 c 245 s 1, 2003 c 111 s 1015, 1993 c 417 s 7, 1987 c 346 s 19, & 1983 1st ex.s. c 71 s 8.

NEW SECTION. Sec. 30. The following acts or parts of acts are each repealed:

(1) RCW 29A.24.210 (Vacancy in partisan elective office--Special filing period) and 2005 c 2 s 10 & 2003 c 111 s 621; and

(2) RCW 29A.24.211 (Vacancy in partisan elective office--Special filing period) and 2006 c 344 s 10 & 2004 c 271 s 116.

NEW SECTION. Sec. 31. Section 21 of this act takes effect July 1, 2013.

NEW SECTION. Sec. 32. Section 20 of this act expires July 1, 2013.

NEW SECTION. Sec. 33. Except for sections 10 through 12, 21, and 30 of this act, this act takes effect January 1, 2012.

NEW SECTION. Sec. 34. Sections 10 through 12 and 30 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."

Correct the title.

Signed by Representatives Hunt, Chair; Appleton, Vice Chair; Alexander; Darneille; Dunshee; Hurst; McCoy and Miloscia.

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

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5174

Prime Sponsor, Senator Chase: Encouraging instruction in the history of civil rights. Reported by Committee on Education

MAJORITY recommendation: Do pass. Signed by Representatives Santos, Chair; Lytton, Vice Chair; Dammeier, Ranking Minority Member; Ahern; Angel; Billig; Dahlquist; Fagan; Finn; Haigh; Hunt; Klippert; Kretz; Ladenburg; Liias; Maxwell; McCoy; Probst and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Anderson, Assistant Ranking Minority Member and Hargrove.

Passed to Committee on Rules for second reading.

March 22, 2011

SSB 5185

Prime Sponsor, Committee on Transportation: Temporarily suspending certain motorcycle rules when operating in parades or public demonstrations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Representatives Clibborn, Chair; Billig, Vice Chair; Liias, Vice Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel; Asay; Eddy; Finn; Fitzgibbon; Jinkins; Johnson; Klippert; Kristiansen; Ladenburg; McCune; Moeller; Morris; Moscoso; Overstreet; Reykdal; Rivers; Rodne; Rolfes; Ryu; Shea; Takko; Uptegrove and Zeiger.

Passed to Committee on Rules for second reading.

March 22, 2011

ESSB 5186 Prime Sponsor, Committee on Natural Resources & Marine Waters: Concerning skiing in an area or ski trail closed to the public. Reported by Committee on Environment

MAJORITY recommendation: Do pass. Signed by Representatives Upthegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Fitzgibbon; Jacks; Jinkins; Morris; Moscoso; Nealey; Pearson; Takko and Taylor.

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

Passed to Committee on Rules for second reading.

March 22, 2011

SSB 5201 Prime Sponsor, Committee on Natural Resources & Marine Waters: Regarding issues that impact the department of fish and wildlife. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 77.04 RCW to read as follows:

(1) The biological science review process is established. The process must include the participation of three doctoral level scientists with recognized professional or academic expertise in fisheries science, wildlife management, wildlife biology, ecosystem sciences, or another natural resources-based science. One participant in the biological science review process must be appointed by the dean of the college of environment at the University of Washington, one must be appointed by the dean of the college of agricultural, human, and natural resource sciences at Washington State University, and the third must be mutually agreed upon and appointed by the other two appointees. If the structure or formal names of the colleges identified in this subsection are changed by their universities, then the appointment authority under this section is the responsibility of the dean of the applicable new college.

(2) The biological science review process's primary function is the scientific review of any draft or final commission or department decisions regarding the management of wildlife and fish species. The director must submit, as requested by the participants in the biological science review process, information relating to department or commission draft or final decisions. These matters may include, but are not limited to:

- (a) The adoption of management and conservation plans;
- (b) Rule making relating to the harvest or protection of a fish or wildlife species or its habitat;
- (c) Land management decisions;
- (d) The setting of harvest levels; and
- (e) The implementation of hydraulic project approval policies under chapter 77.55 RCW.

(3) The biological science review process participants may conduct a basic review of any department or commission draft or final decisions to determine the decision's scope and effect. If the biological science review process participants determine that the commission or department decision is of a significant scope or has a significant effect, then they have the discretion to conduct a scientific review of the decision.

(4) If the biological science review process participants decide to conduct a scientific review of a commission or department draft or final decision, then the commission or department decision, along

with any supporting data provided by the commission or the department, may be subjected to both blind and open peer review by the appropriate scientific community. Anonymous peer reviewers must be chosen by the biological science review process participants. Upon the completion of the peer review, the biological science review process participants must review the results and make available for publishing, and transmission to the appropriate committees of the legislature, a compilation of the review and any dissenting opinions.

(5) The biological science review process participants only has the authority to provide a scientific review of commission or department decisions. The commission and the department are not required to consult with the biological science review process participants before finalizing a decision or taking an action, and the biological science review process participants do not have the authority to mandate that the commission or department change a decision or take any specific actions.

(6) The biological science review process participants have the responsibility and authority to organize the process, set meeting times and locations, and establish review procedures. The procedures may establish a procedure that allows third parties to petition for the scientific review of a specific department or commission draft or final decision.

(7) In addition to third-party petitions for review under subsection (6) of this section, any individual member of the commission may, at any time, including prior to developing a proposal for the management of any species, request a scientific literature review under this section of any data that may exist or other information the commission has received from any source, including the department. The commission must make available on its internet web site all information received as a result of the petition.

NEW SECTION. Sec. 2. The legislature recognizes that the department of fish and wildlife has multiple, and sometimes conflicting, mandates as outlined in RCW 77.04.012. The intent of establishing a biological science review process is to provide for a degree of certainty that the fish and wildlife management decisions being made by the state are reflective of the most current scientific standards. It is not the intent of the legislature for the biological science review process to provide input as to how the department of fish and wildlife and the fish and wildlife commission balance the competing mandates of RCW 77.04.012. Rather, the intent of the legislature is to ensure that the fish and wildlife management decision makers are relying on the best possible science to guide them with the implementation of their mandates.

NEW SECTION. Sec. 3. A new section is added to chapter 77.15 RCW to read as follows:

(1) It is unlawful to willfully start a fire on lands owned or controlled by the department that are not forest lands as that term is defined in RCW 76.04.005.

(2) Nothing in this section prohibits the use of campfires as defined by rule of the commission, fires in stoves, lanterns and barbeques, and fire used by the department or other federal, state, or local agencies for habitat management or firefighting efforts.

(3) A violation of this section is a gross misdemeanor.

NEW SECTION. Sec. 4. A new section is added to chapter 77.12 RCW to read as follows:

(1) Any person whose negligence is responsible for the starting of a fire on land owned or controlled by the department or whose negligence is responsible for starting or allowing an existing fire to spread onto land owned or controlled by the department is liable for any reasonable expenses incurred by the state, a municipality, or any fire protection agency of the United States.

(2) The department or agency incurring any reasonable expenses has a lien for the same against any property of the person, firm, or corporation liable under subsection (1) of this section by filing a claim of lien naming the person, firm, or corporation describing the property against which the lien is claimed, specifying the amount expended on

the lands on which the firefighting took place and the period during which the reasonable expenses were incurred, and signing the claim with a post office address. No claim of lien is valid unless filed, with the county auditor of the county in which the property sought to be charged is located, within a period of one hundred twenty days after the reasonable expenses of the claimant are incurred. The lien may be foreclosed in the same manner as a mechanic's lien is foreclosed under chapter 60.04 RCW.

(3) For the purposes of this section:

(a) "Reasonable expenses" includes the costs associated with fighting the fire, together with the costs of investigation and litigation including reasonable attorneys' fees and court costs.

(b) "Land owned or controlled by the department" means lands that are not included within the definition of forest land as that term is defined in RCW 76.04.005.

(4) This section does not apply in any case where recovery is provided under RCW 76.04.495.

Sec. 5. RCW 77.15.650 and 2008 c 10 s 2 are each amended to read as follows:

(1) A person is guilty of unlawful purchase or use of a license in the second degree if the person buys, holds, uses, displays, transfers, or obtains any license, tag, permit, or approval required by this title and the person:

(a) Uses false information to buy, hold, use, display, or obtain a license, permit, tag, or approval;

(b) Acquires, holds, or buys in excess of one license, permit, or tag for a license year if only one license, permit, or tag is allowed per license year;

(c) Except as authorized under RCW 77.32.565, uses or displays a license, permit, tag, or approval that was issued to another person;

(d) Except as authorized under RCW 77.32.565, permits or allows a license, permit, tag, or approval to be used or displayed by another person not named on the license, permit, tag, or approval;

(e) Acquires or holds a license while privileges for the license are revoked or suspended;

(f) Holds a resident license from another state or country. This subsection (1)(f) only applies if the Washington license, tag, permit, or approval that the person buys, holds, uses, displays, transfers, or obtains is a resident license. It is prima facie evidence of a violation of this section if any person who has a resident license from another state or country purchases a resident license, tag, permit, or approval in Washington. This subsection does not apply to individuals who meet the definition of "resident" in section 10(2) and (3) of this act.

(2) A person is guilty of unlawful purchase or use of a license in the first degree if the person commits the act described by subsection (1) of this section and the person was acting with intent that the license, permit, tag, or approval be used for any commercial purpose. A person is presumed to be acting with such intent if the violation involved obtaining, holding, displaying, or using a license or permit for participation in any commercial fishery issued under this title or a license authorizing fish or wildlife buying, trafficking, or wholesaling.

(3)(a) Unlawful purchase or use of a license in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a two-year suspension of participation in the activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(b) Unlawful purchase or use of a license in the first degree is a class C felony. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a five-year suspension of participation in any activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(4) For purposes of this section, a person "uses" a license, permit, tag, or approval if the person engages in any activity authorized by the license, permit, tag, or approval held or possessed by the person. Such uses include but are not limited to fishing, hunting, taking,

trapping, delivery or landing fish or wildlife, and selling, buying, or wholesaling of fish or wildlife.

(5) Any license obtained in violation of this section is void upon issuance and is of no legal effect.

NEW SECTION. Sec. 6. A new section is added to chapter 77.15 RCW to read as follows:

(1) A taxidermist, fur dealer, or wildlife meat cutter is guilty of failing to maintain business records and report if the person acts for commercial purposes, processes, holds, or stores wildlife; and:

(a) Fails to maintain records as required under subsections (2) through (5) of this section; or

(b) Violates any rule of the department by failing to report information from these records.

(2) A taxidermist, fur dealer, or wildlife meat cutter who processes, holds, or stores wildlife must keep a record of each wildlife carcass or part received.

(3) All records of receipt of wildlife must be maintained at the location where the wildlife is being processed, held, or stored, or at the principal place of business of the wildlife meat cutter, taxidermist, or fur dealer.

(4) Records of the receipt of wildlife that are required to be kept under this section must be in the English language and be maintained for three years from the date the wildlife is processed, held, or stored.

(5) The form and content of records maintained by taxidermists, fur dealers, and wildlife meat cutters who process, hold, or store wildlife must be determined by the commission by rule. However, the records must include:

(a) Either the unique license number issued by the department to the person delivering the wildlife or wildlife parts or the name, address, and phone number of the person or company from whom the wildlife or wildlife parts were received;

(b) The date of receipt; and

(c) The number and species of wildlife carcasses or parts received.

(6) Taxidermists, fur dealers, and wildlife meat cutters who fail to maintain business records in accordance with this section or fail to report information from the records as required by rule of the department are guilty of a misdemeanor.

Sec. 7. RCW 77.15.110 and 2002 c 127 s 2 are each amended to read as follows:

(1) For purposes of this chapter, a person acts for commercial purposes if the person engages in conduct that relates to commerce in fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial conduct may include taking, delivering, selling, buying, or trading fish, seaweed, shellfish, or wildlife where there is present or future exchange of money, goods, or any valuable consideration. Evidence that a person acts for commercial purposes includes, but is not limited to, the following conduct:

(a) Using gear typical of that used in commercial fisheries;

(b) Exceeding the bag or possession limits for personal use by taking or possessing more than three times the amount of fish, seaweed, shellfish, or wildlife allowed;

(c) Delivering or attempting to deliver fish, seaweed, shellfish, or wildlife to a person who sells or resells fish, seaweed, shellfish, or wildlife including any licensed or unlicensed wholesaler;

(d) Taking fish or shellfish using a vessel designated on a commercial fishery license or using gear not authorized in a personal use fishery;

(e) Using a commercial fishery license;

(f) Selling or dealing in raw furs for a fee or in exchange for goods or services; ~~((#))~~

(g) Performing taxidermy service on fish, shellfish, or wildlife belonging to another person for a fee or receipt of goods or services; or

(h) Packs, cuts, processes, or stores the meat of wildlife for consumption, for a fee or in exchange for goods or services.

(2) For purposes of this chapter, the value of any fish, seaweed, shellfish, or wildlife may be proved based on evidence of legal or illegal sales involving the person charged or any other person, or offers to sell or solicitation of offers to sell by the person charged or by any other person, or of any market price for the fish, seaweed, shellfish, or wildlife including market price for farm-raised game animals. The value assigned to specific fish, seaweed, shellfish, or wildlife by RCW 77.15.420 may be presumed to be the value of such fish, seaweed, shellfish, or wildlife. It is not relevant to proof of value that the person charged misrepresented that the fish, seaweed, shellfish, or wildlife was taken in compliance with law if the fish, seaweed, shellfish, or wildlife was unlawfully taken and had no lawful market value.

Sec. 8. RCW 77.15.280 and 2008 c 244 s 2 are each amended to read as follows:

(1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any rule of the commission or the director;

(b) Fails to maintain a trapper's report ~~((or taxidermist ledger))~~ in violation of any rule of the commission or the director;

(c) Fails to submit any portion of a big game animal for a required inspection required by rule of the commission or the director; or

(d) Fails to return a catch record card to the department as required by rule of the commission or director, except for catch record cards officially endorsed for Puget Sound Dungeness crab.

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor.

Sec. 9. RCW 77.08.010 and 2009 c 333 s 12 are each amended to read as follows:

The definitions in this section apply throughout this title or rules adopted under this title unless the context clearly requires otherwise.

(1) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(2) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (3), ~~((28), (40), (44), (58), and (59))~~ (26), (38), (42), (56), and (57) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(3) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(4) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(5) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(6) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(7) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(8) "Commercial" means related to or connected with buying, selling, or bartering.

(9) "Commission" means the state fish and wildlife commission.

(10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(11) "Contraband" means any property that is unlawful to produce or possess.

(12) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(13) "Department" means the department of fish and wildlife.

(14) "Director" means the director of fish and wildlife.

(15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(16) ~~("Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.~~

~~—(17))~~ (17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

~~((18))~~ (18) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol ~~officer.~~

~~—(19))~~ (19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

~~((20))~~ (20) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

~~((21))~~ (21) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

~~((22))~~ (22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

~~((23))~~ (23) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

~~((24))~~ (24) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

~~((25))~~ (25) "Game farm" means property on which wildlife is held ~~((or)), confined, propagated, hatched, fed, or otherwise~~ raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

~~((26))~~ (26) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

~~((27))~~ (27) "Illegal items" means those items unlawful to be possessed.

~~((28))~~ (28) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

~~((29))~~ (27) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

~~((30))~~ (28) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

~~((31))~~ (29) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

~~((32))~~ (30) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

~~((33))~~ (31) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

~~((34))~~ (32) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

~~((35))~~ (33) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

~~((36))~~ (34) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

~~((37))~~ (35) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

~~((38))~~ (36) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

~~((39))~~ (37) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

~~((40))~~ (38) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

~~((41))~~ (39) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

~~((42))~~ (40) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

~~((43))~~ (41) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

~~((44))~~ (42) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

~~((45))~~ (43) "Resident" ~~((means: —(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and —(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection))~~ has the same meaning as defined in section 10 of this act.

~~((46))~~ (44) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

~~((47))~~ (45) "Saltwater" means those marine waters seaward of river mouths.

~~((48))~~ (46) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

~~((49))~~ (47) "Senior" means a person seventy years old or older.

~~((50))~~ (48) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

~~((51))~~ (49) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

~~((52))~~ (50) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

~~((53))~~ (51) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

~~((54))~~ (52) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

~~((55))~~ (53) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

~~((56))~~ (54) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

~~((57))~~ (55) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

~~((58))~~ (56) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

~~((59))~~ (57) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

~~((60))~~ (58) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

~~((61))~~ (59) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state ~~((and the species Rana catesbeiana (bullfrog))).~~ The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

~~((62))~~ (60) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

~~((63))~~ (61) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

~~((64))~~ (62) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

~~(63)~~ "Fur dealer" means a person who purchases, receives, or resells raw furs for commercial purposes.

~~(64)~~ "Natural person" means a human being.

~~(65)~~ "Taxidermist" means a person who, for commercial purposes, creates lifelike representations of fish and wildlife using

fish and wildlife parts and various supporting structures.
 (66) "Wildlife meat cutter" means a person who packs, cuts, processes, or stores wildlife for consumption for another for commercial purposes.

NEW SECTION. Sec. 10. A new section is added to chapter 77.08 RCW to read as follows:

For the purposes of this title or rules adopted under this title, "resident" means:

(1) A natural person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, is not licensed to hunt or fish as a resident in another state or country, and is not receiving resident benefits of another state or country.

(a) For purposes of this section, "permanent place of abode" means a residence in this state that a person maintains for personal use.

(b) A natural person can demonstrate that he or she has maintained a permanent place of abode in Washington by showing that he or she:

(i) Uses a Washington state address for federal income tax or state tax purposes;

(ii) Designates this state as his or her residence for obtaining eligibility to hold a public office or for judicial actions;

(iii) Is a registered voter in the state of Washington; or

(iv) Is a custodial parent with a child attending prekindergarten, kindergarten, elementary school, middle school, or high school in this state.

(c) A natural person can demonstrate the intent to continue residing within the state by showing that he or she:

(i) Has a valid Washington state driver's license; or

(ii) Has a valid Washington state identification card, if he or she is not eligible for a Washington state driver's license; and

(iii) Has registered his or her vehicle or vehicles in Washington state.

(2) The spouse of a member of the United States armed forces if the member qualifies as a resident under subsection (1), (3), or (4) of this section, or a natural person age eighteen or younger who does not qualify as a resident under subsection (1) of this section, but who has a parent or legal guardian who qualifies as a resident under subsection (1), (3), or (4) of this section.

(3) A member of the United States armed forces temporarily stationed in Washington state on predeployment orders. A copy of the person's military orders is required to meet this condition.

(4) A member of the United States armed forces who is permanently stationed in Washington state or who designates Washington state on their military "state of legal residence certificate" or enlistment or re-enlistment documents, and who does not have a license to hunt or fish as a resident in another state or country. A copy of the person's "state of legal residence certificate" or enlistment or re-enlistment documents is required to meet the conditions of this subsection.

Sec. 11. RCW 77.12.020 and 2002 c 281 s 3 are each amended to read as follows:

(1) The director shall investigate the habits and distribution of the various species of wildlife native to or adaptable to the habitats of the state. The commission shall determine whether a species should be managed by the department and, if so, classify it under this section.

(2) The commission may classify by rule wild animals as game animals and game animals as fur-bearing animals.

(3) The commission may classify by rule wild birds as game birds or predatory birds. All wild birds not otherwise classified are protected wildlife.

(4) In addition to those species listed in RCW 77.08.020, the commission may classify by rule as game fish other species of the

class Osteichthyes that are commonly found in fresh water except those classified as food fish by the director.

(5) The director may recommend to the commission that a species of wildlife should not be hunted or fished. The commission may designate species of wildlife as protected.

(6) If the director determines that a species of wildlife is seriously threatened with extinction in the state of Washington, the director may request its designation as an endangered species. The commission may designate an endangered species.

(7) If the common name of a species or the common name of a class of species is used in this title, the commission has the authority to identify by rule, for the purposes of administering this title, the taxonomical name or names of the species associated with the common name or the species that comprise the class identified by its common name.

(8) If the director determines that a species of the animal kingdom, not native to Washington, is dangerous to the environment or wildlife of the state, the director may request its designation as deleterious exotic wildlife. The commission may designate deleterious exotic wildlife.

~~((8))~~ (9) Upon recommendation by the director, the commission may classify nonnative aquatic animal species according to the following categories:

(a) Prohibited aquatic animal species: These species are considered by the commission to have a high risk of becoming an invasive species and may not be possessed, imported, purchased, sold, propagated, transported, or released into state waters except as provided in RCW 77.15.253;

(b) Regulated aquatic animal species: These species are considered by the commission to have some beneficial use along with a moderate, but manageable risk of becoming an invasive species, and may not be released into state waters, except as provided in RCW 77.15.253. The commission shall classify the following commercial aquaculture species as regulated aquatic animal species, and allow their release into state waters pursuant to rule of the commission: Pacific oyster (*Crassostrea gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster (*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam (*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and suminoe oyster (*Crassostrea ariankensis*);

(c) Unregulated aquatic animal species: These species are considered by the commission as having some beneficial use along with a low risk of becoming an invasive species, and are not subject to regulation under this title;

(d) Unlisted aquatic animal species: These species are not designated as a prohibited aquatic animal species, regulated aquatic animal species, or unregulated aquatic animal species by the commission, and may not be released into state waters. Upon request, the commission may determine the appropriate category for an unlisted aquatic animal species and classify the species accordingly;

(e) This subsection ~~((8))~~ (9) does not apply to the transportation or release of nonnative aquatic animal species by ballast water or ballast water discharge.

~~((9))~~ (10) Upon recommendation by the director, the commission may develop a work plan to eradicate native aquatic species that threaten human health. Priority shall be given to water bodies that the department of health has classified as representing a threat to human health based on the presence of a native aquatic species.

Sec. 12. RCW 77.65.110 and 2001 c 105 s 4 are each amended to read as follows:

This section applies to all commercial fishery licenses~~((charter boat license(s)))~~ and delivery licenses.

(1) A person designated as an alternate operator must possess an alternate operator license issued under RCW 77.65.130, and be designated on the license prior to engaging in the activities authorized

by the license. The holder of the commercial fishery license (~~(charter boat license)~~) or delivery license may designate up to two alternate operators for the license, except:

(a) Whiting--Puget Sound fishery licensees may not designate alternate operators;

(b) Emergency salmon delivery licensees may not designate alternate operators;

(c) Shrimp pot-Puget Sound fishery licensees may designate no more than one alternate operator at a time; and

(d) Shrimp trawl-Puget Sound fishery licensees may designate no more than one alternate operator at a time.

(2) The fee to change the alternate operator designation is twenty-two dollars.

Sec. 13. RCW 77.65.130 and 2005 c 82 s 2 are each amended to read as follows:

(1) A person who holds a commercial fishery license or a delivery license may operate the vessel designated on the license. A person who is not the license holder may operate the vessel designated on the license only if:

(a) The person is operating a charter boat; or

~~(b) The person holds an alternate operator license issued by the director and ((b)) the person is designated as an alternate operator on the underlying commercial fishery license or delivery license under RCW 77.65.110.~~

(2) Only an individual at least sixteen years of age may hold an alternate operator license.

(3) No individual may hold more than one alternate operator license. An individual who holds an alternate operator license may be designated as an alternate operator on an unlimited number of commercial fishery licenses or delivery licenses under RCW 77.65.110.

(4) An individual who holds two Dungeness crab--Puget Sound fishery licenses may operate the licenses on one vessel if the license holder or alternate operator is on the vessel. The department shall allow a license holder to operate up to one hundred crab pots for each license.

(5) Two persons owning separate Dungeness crab--Puget Sound fishery licenses may operate both licenses on one vessel if the license holders or their alternate operators are on the vessel.

(6) As used in this section, to "operate" means to control the deployment or removal of fishing gear from state waters while aboard a vessel or to operate a vessel delivering food fish or shellfish taken in offshore waters to a port within the state.

Sec. 14. RCW 77.15.720 and 2000 c 107 s 258 are each amended to read as follows:

(1) If a person (~~(shoots)~~) discharges a firearm, bow, or crossbow while hunting and in a manner that injures, or that a reasonable person would believe is likely to injure, another person or domestic livestock ((while hunting)) or kills domestic livestock, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. If the shooting ((of another person or livestock is the result of criminal negligence or reckless or intentional conduct, then the person's)) kills or results in the death of another person, then the director shall revoke all of the shooter's hunting licenses and suspend all of the person's hunting privileges ((shall be suspended)) for ten years. The suspension shall be continued beyond these periods if damages owed to the victim or livestock owner have not been paid by the suspended person. ((A)) In such a case, no hunting license shall ~~((not))~~ be reissued to the suspended person unless authorized by the director.

~~(2) ((Within twenty days of service of an order suspending privileges or imposing conditions under this section or RCW 77.15.710, a person may petition for administrative review under chapter 34.05 RCW by serving the director with a petition for review. The order is final and unappealable if there is no timely petition for administrative review.)) A person who is notified of a license~~

revocation under this section may request an appeal hearing under chapter 34.05 RCW.

(3) The commission may by rule authorize petitions for reinstatement of administrative suspensions and define circumstances under which such a reinstatement will be allowed.

Sec. 15. RCW 77.15.130 and 1998 c 190 s 14 are each amended to read as follows:

(1) A person is guilty of unlawful taking of protected fish or wildlife if:

(a) The person hunts, fishes, possesses, or maliciously kills protected fish or wildlife, or the person possesses or maliciously destroys the eggs or nests of protected fish or wildlife, and the taking has not been authorized by rule of the commission; or

(b) The person violates any rule of the commission regarding the taking, harming, harassment, possession, or transport of protected fish or wildlife.

(2) Unlawful taking of protected fish or wildlife is a misdemeanor.

(3) In addition to the penalties set forth in subsections (1) and (2) of this section, if a person is convicted of violating this section and the violation results in the death of wildlife listed in this subsection, the court shall require payment of the following amounts for each animal killed or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425.

(a)	Ferruginous	hawk	\$2,000
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(b)	Common	loon	\$2,000
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(c)	Bald	eagle	\$2,000
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(d)	Peregrine	falcon	\$2,000
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(4) If two or more persons are convicted of illegally possessing wildlife in subsection (1) of this section, the criminal wildlife penalty assessment must be imposed against them jointly and separately.

(5)(a) The criminal wildlife penalty assessment must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.

(b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.

(6) A defaulted criminal wildlife penalty assessment may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.

(7) The department shall revoke any licenses or tags used in connection with a violation of this section and order the person's privileges to hunt, fish, trap, and obtain licenses under this title to be suspended for three years.

Sec. 16. RCW 77.15.120 and 2000 c 107 s 236 are each amended to read as follows:

(1) A person is guilty of unlawful taking of endangered fish or wildlife in the second degree if the person hunts, fishes, possesses, maliciously harasses or kills fish or wildlife, or maliciously destroys the nests or eggs of fish or wildlife and the fish or wildlife is designated by the commission as endangered, and the taking has not been authorized by rule of the commission.

(2) A person is guilty of unlawful taking of endangered fish or wildlife in the first degree if the person has been:

(a) Convicted under subsection (1) of this section or convicted of any crime under this title involving the killing, possessing, harassing, or harming of endangered fish or wildlife; and

(b) Within five years of the date of the prior conviction the person commits the act described by subsection (1) of this section.

(3)(a) Unlawful taking of endangered fish or wildlife in the second degree is a gross misdemeanor.

(b) Unlawful taking of endangered fish or wildlife in the first degree is a class C felony. The department shall revoke any licenses or tags used in connection with the crime and order the person's privileges to hunt, fish, trap, or obtain licenses under this title to be suspended for ~~((two))~~ three years.

NEW SECTION. Sec. 17. It is the intent of the legislature to prevent predatory wildlife from becoming habituated to humans and to protect the public against the serious health and safety risk posed by predatory wildlife who are drawn into contact with humans and related infrastructure by individuals who feed predatory wildlife negligently or intentionally.

NEW SECTION. Sec. 18. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person may not negligently feed or attempt to feed predatory wildlife or negligently attract predatory wildlife to land or a building.

(2) If a fish and wildlife officer or animal control authority as defined in RCW 16.30.010, has probable cause to believe that a person is negligently feeding, attempting to feed, or attracting predatory wildlife to a land or building by placing or locating food, food waste, or another substance in, upon, or about any land or building, and the food, food waste, or other substance poses a risk to the safety of any person because it is attracting or could attract predatory wildlife to the land or building, the officer may issue an infraction under RCW 77.15.160.

(3) This section does not apply to:

(a) A person who is engaging in forest practices in accordance with chapter 76.09 RCW or in hunting or trapping wildlife in accordance with all other applicable provisions of this title or rules of the commission or the director;

(b) A person who is engaging in a farming operation that is using generally accepted farming practices;

(c) Waste disposal facilities that are operating in accordance with applicable federal, state, and municipal laws;

(d) Zoos, lawfully operated wildlife refuges, and state licensed wildlife rehabilitators; or

(e) A fish and wildlife officer, or employee or agent of the department operating under the authority of or upon request from an officer, conducting wildlife capture activities to address a threat to human safety or a wildlife interaction as defined in RCW 77.36.010.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Building" means a private domicile or home or public or commercial building.

(b) "Predatory wildlife" means bear, cougar, and wolf.

(c) "Food, food waste, or other substance" means human and pet food, or other waste or garbage that could attract wildlife.

(d) "Negligently feed, attempt to feed, or attract" means to provide, leave, or place in, upon, or about any land or building any food, food waste, or other substance that attracts or could attract predatory wildlife to that land or building, without the awareness that a reasonable person in the same situation would have with regard to the likelihood that such food, food waste, or other substance could attract predatory wildlife to the land or building. The term does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the container in another manner.

NEW SECTION. Sec. 19. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person may not intentionally feed or attempt to feed predatory wildlife or intentionally attract predatory wildlife to land or a building.

(2) A person who intentionally feeds, attempts to feed, or attracts predatory wildlife to land or a building is guilty of a misdemeanor.

(3) A person who is issued an infraction under section 18 of this act for negligently feeding, attempting to feed, or attracting predatory wildlife to land or a building, and who fails to contain, move, or remove the food, food waste, or other substance within twenty-four hours of being issued the citation, is guilty of a misdemeanor.

(4) This section does not apply to:

(a) A person who is engaging in forest practices in accordance with chapter 76.09 RCW or in hunting or trapping wildlife in accordance with all other applicable provisions of this title or rules of the commission or the director;

(b) A person who is engaging in a farming operation that is using generally accepted farming practices;

(c) Waste disposal facilities that are operating in accordance with applicable federal, state, and municipal laws;

(d) Zoos, lawfully operated wildlife refuges, and state licensed wildlife rehabilitators; or

(e) A fish and wildlife officer, or employee or agent of the department operating under the authority of or upon request from an officer, conducting wildlife capture activities to address a threat to human safety or a wildlife interaction as defined in RCW 77.36.010.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Building" means a private domicile or home or public or commercial building.

(b) "Predatory wildlife" means bear, cougar, and wolf.

(c) "Food, food waste, or other substance" means human and pet food, or other waste or garbage that could attract wildlife.

(d) "Intentionally feed, attempt to feed, or attract" means to purposefully or knowingly provide, leave, or place in, upon, or about any land or building any food, food waste, or other substance that attracts or could attract predatory wildlife to that land or building. The term does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the container in another manner.

Sec. 20. RCW 77.15.160 and 2000 c 107 s 237 are each amended to read as follows:

A person is guilty of an infraction, which shall be cited and punished as provided under chapter 7.84 RCW, if the person:

(1) Fails to immediately record a catch of fish or shellfish on a catch record card required by RCW 77.32.430, or required by rule of the commission under this title; or

(2) Fishes for personal use using barbed hooks in violation of any rule; ~~((or))~~

(3) Negligently feeds, attempts to feed, or attract predatory wildlife in violation of section 18 of this act; or

(4) Violates any other rule of the commission or director that is designated by rule as an infraction.

Sec. 21. RCW 77.95.090 and 2009 c 340 s 4 are each amended to read as follows:

The dedicated regional fisheries enhancement group account is created in the custody of the state treasurer. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

A portion of each recreational fishing license fee shall be used as provided in RCW 77.32.440. A surcharge of one hundred dollars shall be collected on each commercial salmon fishery license, each salmon delivery license, and each salmon charter license sold in the state. All receipts shall be placed in the regional fisheries enhancement group account and shall be used exclusively for regional fisheries enhancement group projects ~~((for the purposes of RCW 77.95.140))~~ except that the department may use up to twenty-percent

of the account funds to provide agency assistance to the groups for professional, administrative and technical assistance and training, project proposal compatibility review, contract management, financial management of regional fisheries enhancement group funds, and provide direction and training in Washington state budgeting and accounting procedures. Except as provided in RCW 77.95.320, funds from the regional fisheries enhancement group account shall not serve as replacement funding for department operated salmon projects that exist on January 1, 1991.

All revenue from the department's sale of salmon carcasses and eggs that return to group facilities shall be deposited in the regional fisheries enhancement group account for use by the regional fisheries enhancement group that produced the surplus. The commission shall adopt rules to implement this section pursuant to chapter 34.05 RCW.

Sec. 22. RCW 69.50.320 and 2003 c 175 s 2 are each amended to read as follows:

The department of fish and wildlife may apply to the department of health for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs and to euthanize injured, sick, or unwanted wildlife. The department of fish and wildlife must not permit a person to administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The department of health ~~((may))~~ must issue a limited registration to carry out the provisions of this section. The board may adopt rules to ensure strict compliance with the provisions of this section. The board, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. The board shall suspend or revoke registration upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.

Sec. 23. RCW 77.04.080 and 2000 c 107 s 205 are each amended to read as follows:

(1)(a) Persons eligible for appointment as director shall have practical knowledge of the habits and distribution of fish and wildlife. The director shall supervise the administration and operation of the department and perform the duties prescribed by law and delegated by the commission. The director shall carry out the basic goals and objectives prescribed under RCW 77.04.055. The director may appoint and employ necessary personnel. The director may delegate, in writing, to department personnel the duties and powers necessary for efficient operation and administration of the department.

(b) Only persons having general knowledge of the fisheries and wildlife resources and of the commercial and recreational fishing industry in this state are eligible for appointment as director. The director shall not have a financial interest in the fishing industry or a directly related industry. The director shall receive the salary fixed by the governor under RCW 43.03.040.

(c) The director is the ex officio secretary of the commission and shall attend its meetings and keep a record of its business.

(2)(a) The director may appoint and commission fish and wildlife officers to serve as general authority Washington peace officers, as defined in RCW 10.93.020. Under the interlocal cooperation act, chapter 39.34 RCW, the director may contract with general authority law enforcement agencies, federal law enforcement agencies, and limited authority law enforcement agencies to enforce this title and the rules of the department to provide mutual law enforcement assistance as defined in chapter 10.93 RCW.

(b) Any liability or claimed liability that arises out of the exercise of authority by an officer acting under the mutual aid contract is the responsibility of the primary commissioning agency unless the officer acts under the direction and control of the department or unless the

liability is otherwise allocated under a written agreement between the primary commissioning agency and the department.

Sec. 24. RCW 77.12.071 and 2007 c 337 s 2 are each amended to read as follows:

(1) Department employees, in carrying out their duties under this title on public lands or state waters, may:

(a) Collect samples of tissue, fluids, or other bodily parts of fish, wildlife, or shellfish; or

(b) Board vessels in state waters engaged in commercial and recreational harvest activities to collect samples of fish, wildlife, or shellfish.

(i) Department employees shall ask permission from the owner or his or her agent before boarding vessels in state waters.

(ii) If an employee of the department is denied access to any vessel where access was sought for the purposes of (b) of this subsection, the department employee may contact an enforcement officer for assistance in applying for a search warrant authorizing access to the vessel in order to carry out the department employee's duties under this section.

(2) Department employees must have official identification, announce their presence and intent, and perform their duties in a safe and professional manner while carrying out the activities in this section.

(3) This section does not apply to the harvest of private sector cultured aquatic products as defined in RCW 15.85.020.

(4) This section does not apply to fish and wildlife officers ~~((and ex officio fish and wildlife officers))~~ carrying out their duties under this title.

Sec. 25. RCW 77.12.154 and 1998 c 190 s 71 are each amended to read as follows:

The director, fish and wildlife officers, ~~((ex officio fish and wildlife officers))~~ and department employees may enter upon any land or waters and remain there while performing their duties without liability for trespass.

It is lawful for aircraft operated by the department to land and take off from the beaches or waters of the state.

Sec. 26. RCW 77.15.070 and 2005 c 406 s 2 are each amended to read as follows:

(1) Fish and wildlife officers ~~((and ex officio fish and wildlife officers))~~ may seize without warrant boats, airplanes, vehicles, motorized implements, conveyances, gear, appliances, or other articles they have probable cause to believe have been held with intent to violate or used in violation of this title or rule of the commission or director. However, fish and wildlife officers ~~((or ex officio fish and wildlife officers))~~ may not seize any item or article, other than for evidence, if under the circumstances, it is reasonable to conclude that the violation was inadvertent. The property seized is subject to forfeiture to the state under this section regardless of ownership. Property seized may be recovered by its owner by depositing with the department or into court a cash bond or equivalent security equal to the value of the seized property but not more than one hundred thousand dollars. Such cash bond or security is subject to forfeiture in lieu of the property. Forfeiture of property seized under this section is a civil forfeiture against property and is intended to be a remedial civil sanction.

(2) In the event of a seizure of property under this section, jurisdiction to begin the forfeiture proceedings shall commence upon seizure. Within fifteen days following the seizure, the seizing authority shall serve a written notice of intent to forfeit property on the owner of the property seized and on any person having any known right or interest in the property seized. Notice may be served by any method authorized by law or court rule, including service by certified mail with return receipt requested. Service by mail is deemed complete upon mailing within the fifteen-day period following the seizure.

(3) Persons claiming a right of ownership or right to possession of property are entitled to a hearing to contest forfeiture. Such a claim shall specify the claim of ownership or possession and shall be made in writing and served on the director within forty-five days of the seizure. If the seizing authority has complied with notice requirements and there is no claim made within forty-five days, then the property shall be forfeited to the state.

(4) If any person timely serves the director with a claim to property, the person shall be afforded an opportunity to be heard as to the person's claim or right. The hearing shall be before the director or director's designee, or before an administrative law judge appointed under chapter 34.12 RCW, except that a person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the property seized is more than five thousand dollars. The department may settle a person's claim of ownership prior to the administrative hearing.

(5) The hearing to contest forfeiture and any subsequent appeal shall be as provided for in chapter 34.05 RCW, the administrative procedure act. The seizing authority has the burden to demonstrate that it had reason to believe the property was held with intent to violate or was used in violation of this title or rule of the commission or director. The person contesting forfeiture has the burden of production and proof by a preponderance of evidence that the person owns or has a right to possess the property and:

(a) That the property was not held with intent to violate or used in violation of this title; or

(b) If the property is a boat, airplane, or vehicle, that the illegal use or planned illegal use of the boat, airplane, or vehicle occurred without the owner's knowledge or consent, and that the owner acted reasonably to prevent illegal uses of such boat, airplane, or vehicle.

(6) A forfeiture of a conveyance encumbered by a perfected security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission. No security interest in seized property may be perfected after seizure.

(7) If seized property is forfeited under this section the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release such property to the agency for the use of enforcing this title, or sell such property, and deposit the proceeds to the fish and wildlife enforcement reward account created in RCW 77.15.425.

Sec. 27. RCW 77.15.075 and 2009 c 204 s 1 are each amended to read as follows:

(1) Fish and wildlife officers (~~and ex officio fish and wildlife officers shall enforce this title, rules of the department, and other statutes as prescribed by the legislature. Fish and wildlife officers who are not ex officio officers~~) shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally. Fish and wildlife officers are general authority Washington peace officers.

(2) An applicant for a fish and wildlife officer position must be a citizen of the United States of America who can read and write the English language. (~~All fish and wildlife officers employed after June 13, 2002, must successfully complete the basic law enforcement academy course, known as the basic course, sponsored by the criminal justice training commission, or the basic law enforcement equivalency certification, known as the equivalency course, provided by the criminal justice training commission. All officers employed on June 13, 2002, must have successfully completed the basic course, the equivalency course, or the supplemental course in criminal law enforcement, known as the supplemental course, offered under chapter 155, Laws of 1985. Any officer who has not successfully completed the basic course, the equivalency course, or the supplemental course must complete the basic course or the~~

~~equivalency course within fifteen months of June 13, 2002. (2) Fish and wildlife officers are peace officers.~~)

(3) Any liability or claim of liability under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a fish and wildlife officer rests with the department unless the fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under an agreement between the department and another agency.

(4) (~~Fish and wildlife officers may serve and execute warrants and processes issued by the courts. (5))~~) The department may utilize the services of a volunteer chaplain as provided under chapter 41.22 RCW.

Sec. 28. RCW 77.15.080 and 2002 c 281 s 8 are each amended to read as follows:

(1) Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title, and may request the person to write his or her signature for comparison with the signature on the license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. For licenses purchased over the internet or telephone, fish and wildlife officers may require the person, if age eighteen or older, to exhibit a driver's license or other photo identification.

(2) Based upon articulable facts that a person is transporting a prohibited aquatic animal species or any aquatic plant, fish and wildlife officers (~~and ex officio fish and wildlife officers~~) have the authority to temporarily stop the person and inspect the watercraft to ensure that the watercraft and associated equipment are not transporting prohibited aquatic animal species or aquatic plants.

Sec. 29. RCW 77.15.085 and 2000 c 107 s 232 are each amended to read as follows:

Fish and wildlife officers (~~and ex officio fish and wildlife officers~~) may seize without a warrant wildlife, fish, and shellfish they have probable cause to believe have been taken, transported, or possessed in violation of this title or rule of the commission or director.

Sec. 30. RCW 77.15.092 and 2000 c 107 s 213 are each amended to read as follows:

Fish and wildlife officers (~~and ex officio fish and wildlife officers~~) may arrest without warrant persons found violating the law or rules adopted pursuant to this title.

Sec. 31. RCW 77.15.094 and 2001 c 253 s 25 are each amended to read as follows:

Fish and wildlife officers (~~and ex officio fish and wildlife officers~~) may make a reasonable search without warrant of a vessel, conveyances, vehicles, containers, packages, or other receptacles for fish, seaweed, shellfish, and wildlife which they have reason to believe contain evidence of a violation of law or rules adopted pursuant to this title and seize evidence as needed for law enforcement. This authority does not extend to quarters in a boat, building, or other property used exclusively as a private domicile, does not extend to transitory residences in which a person has a reasonable expectation of privacy, and does not allow search and seizure without a warrant if the thing or place is protected from search without warrant within the meaning of Article I, section 7 of the state Constitution. Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized by law.

Sec. 32. RCW 77.15.480 and 2001 c 253 s 42 are each amended to read as follows:

Articles or devices unlawfully used, possessed, or maintained for catching, taking, killing, attracting, or decoying wildlife, fish, and shellfish are public nuisances. If necessary, fish and wildlife officers

((and ex officio fish and wildlife officers)) may seize, abate, or destroy these public nuisances without warrant or process.

Sec. 33. RCW 77.15.710 and 2000 c 107 s 257 are each amended to read as follows:

(1) The commission shall revoke all hunting, fishing, or other licenses issued under this title and order a ten-year suspension of all privileges extended under the authority of the department of a person convicted of assault on a fish and wildlife officer, ((ex officio officer,)) employee, agent, or personnel acting for the department, if the employee assaulted was on duty at the time of the assault and carrying out the provisions of this title. The suspension shall be continued beyond this period if any damages to the victim have not been paid by the suspended person.

(2) For the purposes of this section, the definition of assault includes:

- (a) RCW 9A.32.030; murder in the first degree;
- (b) RCW 9A.32.050; murder in the second degree;
- (c) RCW 9A.32.060; manslaughter in the first degree;
- (d) RCW 9A.32.070; manslaughter in the second degree;
- (e) RCW 9A.36.011; assault in the first degree;
- (f) RCW 9A.36.021; assault in the second degree; and
- (g) RCW 9A.36.031; assault in the third degree.

Sec. 34. RCW 77.32.014 and 2001 c 253 s 50 are each amended to read as follows:

Licenses, tags, and stamps issued pursuant to this chapter shall be revoked and the privileges suspended for any period in which a person is certified by the department of social and health services or a court of competent jurisdiction as a person in noncompliance with a support order. Fish and wildlife officers ((and ex officio fish and wildlife officers)) shall enforce this section through checks of the department of licensing's computer database. A listing on the department of licensing's database that an individual's license is currently suspended pursuant to RCW 46.20.291(8) shall be prima facie evidence that the individual is in noncompliance with a support order. Presentation of a written release issued by the department of social and health services stating that the person is in compliance with an order shall serve as prima facie proof of compliance with a support order.

Sec. 35. RCW 77.75.110 and 2000 c 107 s 222 are each amended to read as follows:

To enforce RCW 77.75.120 and 77.75.130, courts in the counties contiguous to the boundary waters((s)) and fish and wildlife officers((s and ex officio fish and wildlife officers)) have jurisdiction over the boundary waters to the furthestmost shoreline. This jurisdiction is concurrent with the courts and law enforcement officers of Idaho.

Sec. 36. RCW 77.75.120 and 2000 c 107 s 223 are each amended to read as follows:

The taking of wildlife from the boundary waters or islands of the Snake river shall be in accordance with the wildlife laws of the respective states. Fish and wildlife officers ((and ex officio fish and wildlife officers)) shall honor the license of either state and the right of the holder to take wildlife from the boundary waters and islands in accordance with the laws of the state issuing the license.

NEW SECTION. Sec. 37. (1) The department of fish and wildlife must, by December 31, 2011, deliver a report to the legislature, consistent with RCW 43.01.036, that identifies potential programs, license fees, and mechanisms by which private, nonprofit salmon enhancement organizations would be enabled to raise and control funds that can be used for the salmon enhancement goals of the organizations.

(2) In preparing the report required by this section, the department of fish and wildlife must work proactively with any interested private, nonprofit salmon enhancement organizations.

(3) This section expires July 31, 2012.

NEW SECTION. Sec. 38. If any provision of this act or its application to any person or circumstance is held invalid, the

remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Dunshee; Hinkle; Kretz; Lytton; Orcutt; Pettigrew; Rolfes and Van De Wege.

Referred to Committee on General Government Appropriations & Oversight.

March 22, 2011

SSB 5202 Prime Sponsor, Committee on Human Services & Corrections: Regarding sexually violent predators. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature should act cautiously when constitutional jurisprudence is in doubt. The supreme court's decision to reconsider its ruling in *In re Detention of McCuiston*, 169 Wn.2d 633 (2010), concerning the 2005 legislative amendments to chapter 71.09 RCW leave uncertainty about whether its previous policy decisions will be upheld or struck down. The legislature encourages the courts to stay McCuiston-related proceedings until the supreme court reconsiders the constitutionality of its 2005 amendments, rather than waste vital trial court and appellate resources.

In contrast, the supreme court in *In re Detention of Hawkins*, 169 Wn.2d 796 (2010), expressly invited the legislature to decide whether a polygraph test may be used at the evaluation to determine whether a person is a sexually violent predator. The legislature hereby responds to that invitation but only to the degree that the court finds such information would be useful to the judicial process.

Sec. 2. RCW 71.09.040 and 2009 c 409 s 4 are each amended to read as follows:

(1) Upon the filing of a petition under RCW 71.09.030, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made the judge shall direct that the person be taken into custody.

(2)(a) Within seventy-two hours after a person is taken into custody pursuant to subsection (1) of this section, the court shall provide the person with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the person is a sexually violent predator.

(b) In order to assist the person at the hearing, within twenty-four hours of service of the petition, the prosecuting agency shall provide to the person or his or her counsel a copy of all materials provided to the prosecuting agency by the referring agency pursuant to RCW 71.09.025, or obtained by the prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d).

(c) At ((this)) the hearing, the court shall ((~~it~~)) (i) verify the person's identity, and ((~~it~~)) (ii) determine whether probable cause exists to believe that the person is a sexually violent predator. ((~~At the probable cause hearing.~~))

(d) The state may rely upon the petition and certification for determination of probable cause filed pursuant to RCW 71.09.030. The state may supplement this with additional documentary evidence or live testimony.

(e) The person may be held in total confinement at the county jail until the trial court renders a decision after the conclusion of the

seventy-two hour probable cause hearing. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the ~~((secretary))~~ department.

(3) At the probable cause hearing, the person shall have the following rights in addition to the rights previously specified: (a) To be represented by counsel; (b) to present evidence on his or her behalf; (c) to cross-examine witnesses who testify against him or her; and (d) to view and copy all petitions and reports in the court file. The court must permit a witness called by either party to testify by telephone. ~~((Because this))~~

(4) The probable cause hearing is a special proceeding and therefore discovery pursuant to the civil rules shall not occur until after the hearing has been held and the court has issued its decision.

~~((4))~~ (5)(a) If the probable cause determination is made, the judge shall direct that the person be transferred to an appropriate facility for an evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified, pursuant to rules developed by the department, to conduct such an examination ((pursuant to rules developed by the department of social and health services)).

(b) The evaluation may be ordered regardless of whether a previous evaluation was performed before filing the petition for civil commitment.

(c) The evaluation shall be conducted pursuant to rules developed by the department. In adopting ~~((such))~~ rules pursuant to this section, the department ~~((of social and health services))~~ shall consult with the department of health and the department of corrections.

(d) In no event shall the person be released from confinement prior to trial. A witness called by either party shall be permitted to testify by telephone.

(6) The judge may require the person to complete any or all of the following procedures or tests if requested by the evaluator: (a) A clinical interview; (b) psychological testing; (c) plethysmograph testing; and (d) polygraph testing. The judge may order the person to complete any other procedures and tests relevant to the evaluation.

Sec. 3. RCW 71.09.090 and 2010 1st sp.s. c 28 s 2 are each amended to read as follows:

(1) If the secretary determines that the person's condition has so changed that either: (a) The person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall within forty-five days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the ~~((annual))~~ report prepared pursuant to RCW 71.09.070 with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting ~~((attorney or attorney general))~~ agency shall present prima facie evidence establishing that the committed person continues to meet the definition of a sexually violent predator and that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community. In making this showing, the ~~((state))~~ prosecuting agency may rely exclusively upon the ~~((annual))~~ report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c) If the court at the show cause hearing determines that either: (i) The ~~((state))~~ prosecuting agency has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator and that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person's condition has so changed since the person's last commitment trial that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), the court shall consider whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed. The court may not find probable cause for a trial addressing less restrictive alternatives unless a proposed less restrictive alternative placement meeting the conditions of RCW 71.09.092 is presented to the court at the show cause hearing.

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The department is responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment. Evaluations pursuant to this section shall be subject to all requirements specified in RCW 71.09.040.

(b) Whenever any person is subjected to an evaluation under (a) of this subsection, the department is responsible for the cost of one expert or professional person conducting an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, such expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the hearing on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(c) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the ((state)) prosecuting agency to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator. Evidence of the prior commitment trial and disposition is admissible. The recommitment proceeding shall otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

(d) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the hearing shall be upon the ((state)) prosecuting agency to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either:

(i) Is not in the best interest of the committed person; or

(ii) Does not include conditions that would adequately protect the community.

(e) Evidence of the prior commitment trial and disposition is admissible in any proceeding under this subsection.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or a trial proceeding may be held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

NEW SECTION. Sec. 4. This act applies to all individuals currently committed or awaiting commitment under chapter 71.09 RCW either on, before, or after the effective date of this section, whether confined in a secure facility or on conditional release.

NEW SECTION. Sec. 5. 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. 6. 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.

Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant

Ranking Minority Member; Appleton; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

Referred to Committee on Ways & Means.

March 22, 2011

SSB 5239

Prime Sponsor, Committee on Early Learning & K-12 Education: Requiring a definition of "resident" for purposes of the allocation method used to distribute federal forest revenue to schools. Reported by Committee on Education

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.520.020 and 1991 sp.s. c 13 s 113 are each amended to read as follows:

(1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of resident full-time equivalent students enrolled in each public school district to the number of resident full-time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended.

(5) The definition of resident student for purposes of this section shall be based on rules adopted by the superintendent of public instruction, which shall consider and address the impact of alternative learning experience students on federal forest funds distribution.

NEW SECTION. Sec. 2. The superintendent of public instruction shall adopt rules to implement section 1 of this act that take effect September 1, 2011.

NEW SECTION. Sec. 3. Section 1 of this act takes effect September 1, 2011."

Correct the title.

Signed by Representatives Santos, Chair; Lytton, Vice Chair; Dammeier, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Ahern; Angel; Billig; Dahlquist;

Fagan; Finn; Haigh; Hargrove; Hunt; Klippert; Kretz; Ladenburg; Lias; Maxwell; McCoy; Probst and Wilcox.

Passed to Committee on Rules for second reading.

Referred to Committee on Education Appropriations & Oversight.

March 21, 2011

ESB 5242 Prime Sponsor, Senator Hargrove: Addressing motorcycle profiling. Reported by Committee on Public Safety & Emergency Preparedness

SSB 5386 Prime Sponsor, Committee on Health & Long-Term Care: Creating an organ donation work group. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Bailey; Clibborn; Green; Harris; Kelley; Moeller and Van De Wege.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 22, 2011

SSB 5352 Prime Sponsor, Committee on Human Services & Corrections: Regarding providing eyeglasses to medicaid enrollees. Reported by Committee on Public Safety & Emergency Preparedness

SSB 5452 Prime Sponsor, Committee on Human Services & Corrections: Regarding communication, collaboration, and expedited medicaid attainment concerning persons with mental health or chemical dependency disorders who are confined in a state institution. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

MAJORITY recommendation: Do pass as amended.

Passed to Committee on Rules for second reading.

Strike everything after the enacting clause and insert the following:

SSB 5356 Prime Sponsor, Committee on Natural Resources & Marine Waters: Allowing the use of dogs to hunt cougars. Reported by Committee on Agriculture & Natural Resources

"NEW SECTION. Sec. 1. The legislature finds that effective collaboration and communication between mental health and chemical dependency treatment providers and service delivery systems and law enforcement and criminal justice agencies is important to both the care of persons with mental disorders and chemical dependency and public safety. The legislature also finds that many state and local efforts in recent years have worked to address improved treatment of persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders who are confined in a correctional institution and to improve communication and collaboration among the agencies, institutions, and professionals who are responsible for the care or custody of those persons. While numerous laws have been enacted to clarify the appropriate sharing of information between those agencies, institutions, and professionals, the legislature finds further clarification will continue to aide and improve the care of those persons and augment public safety.

MAJORITY recommendation: Do pass. Signed by Representatives Blake, Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Hinkle; Kretz and Orcutt.

MINORITY recommendation: Do not pass. Signed by Representatives Stanford, Vice Chair; Dunshee; Lytton; Pettigrew; Rolfes and Van De Wege.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

Passed to Committee on Rules for second reading.

It is permissible to provide to a correctional institution, as defined in RCW 9.94.049, with the fact, place, and date of an involuntary commitment and the fact and date of discharge or release of a person who has been involuntarily committed under chapter 71.05 or 71.34 RCW, without a person's consent, in the course of the implementation and use of the department's postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555. Disclosure under this section is mandatory for the purposes of the health insurance portability and accountability act.

ESSB 5371 Prime Sponsor, Committee on Health & Long-Term Care: Addressing the needs for health insurance coverage for persons under age nineteen. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Bailey; Clibborn; Green; Kelley; Moeller and Van De Wege.

Sec. 3. RCW 71.05.190 and 1997 c 112 s 13 are each amended to read as follows:

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Assistant Ranking Minority Member and Harris.

If the person is not approved for admission by a facility providing seventy-two hour evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his or her place of residence or other appropriate place. If the individual has been arrested, the evaluation and treatment facility shall detain the individual for not more than

eight hours at the request of the peace officer. The facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the person is not approved for admission in order to enable a peace officer to return to the facility and take the individual back into custody.

Sec. 4. RCW 71.05.390 and 2009 c 320 s 3 and 2009 c 217 s 6 are each reenacted and amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, 71.05.385, section 2 of this act, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

- (a) Employed by the facility;
- (b) Who has medical responsibility for the patient's care;
- (c) Who is a designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

- (i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;
- (ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and
- (iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10)(a) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(11)(a) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(12) To the persons designated in RCW 71.05.425 and 71.05.385 for the purposes described in those sections.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.56 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(18) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(19) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except as provided in RCW 71.05.385, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the

person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 5. RCW 71.05.425 and 2009 c 521 s 158 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; ~~(and)~~

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; _____ and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the

requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

Sec. 6. RCW 10.77.165 and 2010 c 28 s 1 are each amended to read as follows:

(1) In the event of an escape by a person committed under this chapter from a state facility or the disappearance of such a person on conditional release or other authorized absence, the superintendent shall provide notification of the person's escape or disappearance for the public's safety or to assist in the apprehension of the person.

(a) The superintendent shall notify:

(i) State and local law enforcement officers located in the city and county where the person escaped and in the city and county which had jurisdiction of the person on the date of the applicable offense;

(ii) Other appropriate governmental agencies; and

(iii) The person's relatives.

(b) The superintendent shall provide the same notification as required by (a) of this subsection to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was convicted or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings if the person was charged with a violent offense; and

(iii) Any other appropriate persons.

(2) Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(3) The notice provisions of this section are in addition to those provided in RCW 10.77.205.

Sec. 7. RCW 10.31.110 and 2007 c 375 s 2 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 regional support network to suffer from a mental disorder, the arresting officer may:

(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 (~~(: PROVIDED, that they are)~~). The individual must be examined by a mental health professional within three hours of (their) arrival;

(b) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

(c) 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 inform the arresting officer of the release within a reasonable period of time after the 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 be guided by standards mutually

agreed upon with the prosecuting authority, which 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 available, and the circumstances surrounding the commission of the alleged offense.

~~((3))~~ (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.

~~((4))~~ (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.

~~((5))~~ (6) The police officer is immune from liability for any good faith conduct under this section.

Sec. 8. RCW 71.05.153 and 2007 c 375 s 8 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a crisis stabilization unit, an evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, or the emergency department of a local hospital by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours: **PROVIDED**, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

Sec. 9. RCW 71.34.340 and 2005 c 453 s 6 are each amended to read as follows:

The fact of admission and all information obtained through treatment under this chapter is confidential. Confidential information may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of this chapter, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To persons with medical responsibility for the minor's care;

(4) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;

(5) When the minor or the minor's parent designates in writing the persons to whom information or records may be released;

(6) To the extent necessary to make a claim for financial aid, insurance, or medical assistance to which the minor may be entitled or for the collection of fees or costs due to providers for services rendered under this chapter;

(7) To the courts as necessary to the administration of this chapter;

(8) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address shall be disclosed upon request;

(9) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(10) To the secretary for assistance in data collection and program evaluation or research, provided that the secretary adopts rules for the conduct of such evaluation and research. The rules shall include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

(11) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence;

(12) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence;

(13) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(14) Upon the death of a minor, to the minor's next of kin;

(15) To a facility in which the minor resides or will reside;

(16) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

This section shall not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary. The fact of admission and all information obtained pursuant to this chapter are not admissible as evidence in any legal proceeding outside this chapter, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(17) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and section 2 of this act.

Sec. 10. RCW 70.02.900 and 2000 c 5 s 4 are each amended to read as follows:

(1) This chapter does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.

(2) This chapter does not modify the terms and conditions of disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, ~~((70.39,))~~ 70.96A, 71.05, ~~((and))~~ 71.34, and 74.09 RCW and rules adopted under these provisions."

Correct the title.

Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

Passed to Committee on Rules for second reading.

March 21, 2011

SB 5480

Prime Sponsor, Senator Conway: Concerning submission of certain information by physicians and physician assistants at the time of license renewal. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass. Signed by Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Bailey; Clibborn; Green; Harris; Kelley; Moeller and Van De Wege.

Referred to Committee on Health & Human Services Appropriations & Oversight.

March 22, 2011

SSB 5487

Prime Sponsor, Committee on Agriculture & Rural Economic Development: Regarding eggs and egg products in intrastate commerce.

Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Hinkle; Kretz; Lytton and Orcutt.

MINORITY recommendation: Do not pass. Signed by Representatives Dunshee; Pettigrew; Rolfes and Van De Wege.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5494 Prime Sponsor, Senator Brown: Addressing the default investment option available to new members of the plan 3 retirement systems. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hudgins; Hunt; Kagi; Kenney; Ormsby; Parker; Ross; Schmick; Seaquist; Springer; Sullivan and Wilcox.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5501 Prime Sponsor, Senator Murray: Concerning the taxation of employee meals provided without specific charge. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hunt; Kagi; Kenney; Ormsby; Parker; Ross; Schmick; Seaquist; Springer; Sullivan and Wilcox.

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

Passed to Committee on Rules for second reading.

March 22, 2011

SSB 5504 Prime Sponsor, Committee on Human Services & Corrections: Addressing unlicensed child care. Reported by Committee on Early Learning & Human Services

MAJORITY recommendation: Do pass as amended.

On page 3, line 28, after "each day" strike "the agency" and insert "a family day care home"

One page 3, line 29, after "licensed" insert "and two hundred fifty dollars for each day a child day care center provided care without being licensed"

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Hope, Assistant Ranking Minority Member; Dickerson; Goodman and Orwall.

MINORITY recommendation: Do not pass. Signed by Representatives Walsh, Ranking Minority Member; Johnson and Overstreet.

Passed to Committee on Rules for second reading.

March 22, 2011

SSB 5545 Prime Sponsor, Committee on Human Services & Corrections: Addressing police investigations of commercial sexual exploitation of children and human trafficking. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds increasing incidents of commercial sexual exploitation of children in our state, and further protection of victims require giving law enforcement agencies the tool to have a unified victim-centered police investigation approach to further protect victims by ensuring their safety by prosecuting traffickers. The one-party consent provision permitted for drug trafficking investigation passed in the comprehensive bill to facilitate police investigation and prosecution of drug trafficking crimes is a helpful tool to this end. The legislature also finds that exceptions should be allowed for minors employed for investigation when the minor is a victim and involves only electronic communication with the defendant.

Sec. 2. RCW 9.73.230 and 2005 c 282 s 17 are each amended to read as follows:

(1) As part of a bona fide criminal investigation, the chief law enforcement officer of a law enforcement agency or his or her designee above the rank of first line supervisor may authorize the interception, transmission, or recording of a conversation or communication by officers under the following circumstances:

(a) At least one party to the conversation or communication has consented to the interception, transmission, or recording;

(b) Probable cause exists to believe that the conversation or communication involves;

(i) The unlawful manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell, controlled substances as defined in chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW;

or
(ii) A party engaging in the commercial sexual abuse of a minor under RCW 9.68A.100, or promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102; and

(c) A written report has been completed as required by subsection (2) of this section.

(2) The agency's chief officer or designee authorizing an interception, transmission, or recording under subsection (1) of this section, shall prepare and sign a written report at the time of authorization indicating:

(a) The circumstances that meet the requirements of subsection (1) of this section;

(b) The names of the authorizing and consenting parties, except that in those cases where the consenting party is a confidential informant, the name of the confidential informant need not be divulged;

(c) The names of the officers authorized to intercept, transmit, and record the conversation or communication;

(d) The identity of the particular person or persons, if known, who may have committed or may commit the offense;

(e) The details of the particular offense or offenses that may have been or may be committed and the expected date, location, and approximate time of the conversation or communication; and

(f) Whether there was an attempt to obtain authorization pursuant to RCW 9.73.090(2) and, if there was such an attempt, the outcome of the attempt.

(3) An authorization under this section is valid in all jurisdictions within Washington state and for the interception of communications from additional persons if the persons are brought into the conversation or transaction by the nonconsenting party or if the nonconsenting party or such additional persons cause or invite the consenting party to enter another jurisdiction.

(4) The recording of any conversation or communication under this section shall be done in such a manner that protects the recording from editing or other alterations.

(5) An authorization made under this section is valid for no more than twenty-four hours from the time it is signed by the authorizing officer, and each authorization shall independently meet all of the requirements of this section. The authorizing officer shall sign the written report required under subsection (2) of this section, certifying the exact date and time of his or her signature. An authorization under this section may be extended not more than twice for an additional consecutive twenty-four hour period based upon the same probable cause regarding the same suspected transaction. Each such extension shall be signed by the authorizing officer.

(6) Within fifteen days after the signing of an authorization that results in any interception, transmission, or recording of a conversation or communication pursuant to this section, the law enforcement agency which made the interception, transmission, or recording shall submit a report including the original authorization under subsection (2) of this section to a judge of a court having jurisdiction which report shall identify (a) the persons, including the consenting party, who participated in the conversation, and (b) the date, location, and approximate time of the conversation.

In those cases where the consenting party is a confidential informant, the name of the confidential informant need not be divulged.

A monthly report shall be filed by the law enforcement agency with the administrator for the courts indicating the number of authorizations granted, the date and time of each authorization, interceptions made, arrests resulting from an interception, and subsequent invalidations.

(7)(a) Within two judicial days of receipt of a report under subsection (6) of this section, the court shall make an ex parte review of the authorization, but not of the evidence, and shall make a determination whether the requirements of subsection (1) of this section were met. If the court determines that any of the requirements of subsection (1) of this section were not met, the court shall order that any recording and any copies or transcriptions of the conversation or communication be destroyed. Destruction of recordings, copies, or transcriptions shall be stayed pending any appeal of a finding that the requirements of subsection (1) of this section were not met.

(b) Absent a continuation under (c) of this subsection, six months following a determination under (a) of this subsection that probable cause did not exist, the court shall cause a notice to be mailed to the last known address of any nonconsenting party to the conversation or communication that was the subject of the authorization. The notice shall indicate the date, time, and place of any interception, transmission, or recording made pursuant to the authorization. The notice shall also identify the agency that sought the authorization and shall indicate that a review under (a) of this subsection resulted in a

determination that the authorization was made in violation of this section.

(c) An authorizing agency may obtain six-month extensions to the notice requirement of (b) of this subsection in cases of active, ongoing criminal investigations that might be jeopardized by sending the notice.

(8) In any subsequent judicial proceeding, evidence obtained through the interception or recording of a conversation or communication pursuant to this section shall be admissible only if:

(a) The court finds that the requirements of subsection (1) of this section were met and the evidence is used in prosecuting an offense listed in subsection (1)(b) of this section; or

(b) The evidence is admitted with the permission of the person whose communication or conversation was intercepted, transmitted, or recorded; or

(c) The evidence is admitted in a prosecution for a "serious violent offense" as defined in RCW 9.94A.030 in which a party who consented to the interception, transmission, or recording was a victim of the offense; or

(d) The evidence is admitted in a civil suit for personal injury or wrongful death arising out of the same incident, in which a party who consented to the interception, transmission, or recording was a victim of a serious violent offense as defined in RCW 9.94A.030.

Nothing in this subsection bars the admission of testimony of a party or eyewitness to the intercepted, transmitted, or recorded conversation or communication when that testimony is unaided by information obtained solely by violation of RCW 9.73.030.

(9) Any determination of invalidity of an authorization under this section shall be reported by the court to the administrative office of the courts.

(10) Any person who intentionally intercepts, transmits, or records or who intentionally authorizes the interception, transmission, or recording of a conversation or communication in violation of this section, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(11) An authorizing agency is liable for twenty-five thousand dollars in exemplary damages, in addition to any other damages authorized by this chapter or by other law, to a person whose conversation or communication was intercepted, transmitted, or recorded pursuant to an authorization under this section if:

(a) In a review under subsection (7) of this section, or in a suppression of evidence proceeding, it has been determined that the authorization was made without the probable cause required by subsection (1)(b) of this section; and

(b) The authorization was also made without a reasonable suspicion that the conversation or communication would involve the unlawful acts identified in subsection (1)(b) of this section.

Sec. 3. RCW 9.73.210 and 1989 c 271 s 202 are each amended to read as follows:

(1) If a police commander or officer above the rank of first line supervisor has reasonable suspicion that the safety of the consenting party is in danger, law enforcement personnel may, for the sole purpose of protecting the safety of the consenting party, intercept, transmit, or record a private conversation or communication concerning:

(a) The unlawful manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell, controlled substances as defined in chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW; or

(b) Person(s) engaging in the commercial sexual abuse of a minor under RCW 9.68A.100, or promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(2) Before any interception, transmission, or recording of a private conversation or communication pursuant to this section, the

police commander or officer making the determination required by subsection (1) of this section shall complete a written authorization which shall include (a) the date and time the authorization is given; (b) the persons, including the consenting party, expected to participate in the conversation or communication, to the extent known; (c) the expected date, location, and approximate time of the conversation or communication; and (d) the reasons for believing the consenting party's safety will be in danger.

(3) A monthly report shall be filed by the law enforcement agency with the administrator for the courts indicating the number of authorizations made under this section, the date and time of each authorization, and whether an interception, transmission, or recording was made with respect to each authorization.

(4) Any information obtained pursuant to this section is inadmissible in any civil or criminal case in all courts of general or limited jurisdiction in this state, except:

(a) With the permission of the person whose communication or conversation was intercepted, transmitted, or recorded without his or her knowledge;

(b) In a civil action for personal injury or wrongful death arising out of the same incident, where the cause of action is based upon an act of physical violence against the consenting party; or

(c) In a criminal prosecution, arising out of the same incident for a serious violent offense as defined in RCW 9.94A.030 in which a party who consented to the interception, transmission, or recording was a victim of the offense.

(5) Nothing in this section bars the admission of testimony of a participant in the communication or conversation unaided by information obtained pursuant to this section.

(6) The authorizing agency shall immediately destroy any written, transcribed, or recorded information obtained from an interception, transmission, or recording authorized under this section unless the agency determines there has been a personal injury or death or a serious violent offense which may give rise to a civil action or criminal prosecution in which the information may be admissible under subsection (4)(b) or (c) of this section.

(7) Nothing in this section authorizes the interception, recording, or transmission of a telephonic communication or conversation.

Sec. 4. RCW 9.68A.110 and 2010 c 289 s 17 and 2010 c 227 s 8 are each reenacted and amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100 through 9.68A.102, except for the purpose of facilitating an investigation where the minor is also the alleged victim, the minor is advised of the risk that the alleged perpetrator may learn of his or her participation in the investigation, and the:

(a) Investigation is authorized pursuant to RCW 9.73.230(1)(b)(ii) or 9.73.210(1)(b); or

(b) Minor's aid in the investigation involves only telephone or electronic communication with the defendant.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring

production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in chapter 227, Laws of 2010 is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, the state is not required to establish the identity of the alleged victim.

(6) In a prosecution under RCW 9.68A.070 or 9.68A.075, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher ~~(learning)~~ education; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

~~((e))~~ (7) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

NEW SECTION. Sec. 5. This act takes effect August 1, 2011."

Correct the title.

Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

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

Passed to Committee on Rules for second reading.

March 22, 2011

SSB 5546

Prime Sponsor, Committee on Judiciary; Concerning the crime of human trafficking. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass. Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking

Minority Member; Appleton; Armstrong; Goodman; Hope; Kirby; Moscoso and Ross.

Passed to Committee on Rules for second reading.

March 21, 2011

E2SSB 5596 Prime Sponsor, Committee on Ways & Means: Requiring the department of social and health services to submit a demonstration waiver request to revise the federal medicaid program. Reported by Committee on Health Care & Wellness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that mounting budget pressures combined with growth in enrollment and constraints in the medicaid program have forced open discussion throughout the country and in our state concerning complete withdrawal from the medicaid program. The legislature recognizes that a better and more sustainable way forward would involve new state flexibility for managing its medicaid program built on the success of the basic health plan and Washington's transitional bridge waiver, where elements of consumer participation and choice, benefit design flexibility, and payment flexibility have helped keep costs low. The legislature further finds that either a centers for medicare and medicaid services' innovation center project or a section 1115 demonstration project, or both, with capped eligibility group per capita payments would allow the state to operate as a laboratory of innovation for bending the cost curve, preserving the safety net, and improving the management of care for low-income populations.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) By October 1, 2011, the department shall submit a request to the centers for medicare and medicaid services' innovation center and, if necessary, a request under section 1115 of the social security act, to implement a medicaid and state children's health insurance program demonstration project. The demonstration project shall be designed to achieve the broadest federal financial participation and, to the extent permitted under federal law, shall authorize:

(a) Establishment of base-year, eligibility group per capita payments, with maximum flexibility provided to the state for managing the health care trend and provisions for shared savings if per capita expenditures are below the negotiated rates. The capped eligibility group per capita payments shall: (i) Be based on targeted per capita costs for the full duration of the demonstration period; (ii) include due consideration and flexibility for unforeseen events, changes in the delivery of health care, and changes in federal or state law; and (iii) take into account the effect of the federal patient protection and affordable care act on federal resources devoted to medicaid and state children's health insurance programs. Federal payments for each eligibility group shall be based on the product of the negotiated per capita payments for the eligibility group multiplied by the actual caseload for the eligibility group;

(b) Coverage of benefits determined to be essential health benefits under section 1302(b) of the federal patient protection and affordable care act (42 U.S.C. 18022(b)) with coverage of benefits in addition to the essential health benefits as appropriate for distinct categories of enrollees such as children, pregnant women, individuals with disabilities, and elderly adults.

(c) Limited, reasonable, and enforceable cost sharing and premiums to encourage informed consumer behavior and appropriate utilization of health services, while ensuring that access to evidence-based, preventative and primary care is not hindered;

(d) Streamlined eligibility determinations;

(e) Innovative reimbursement methods such as bundled, global, and risk-bearing payment arrangements, that promote effective purchasing, efficient use of health services, and support health homes, accountable care organizations, and other innovations intended to contain costs, improve health, and incent smart consumer decision making;

(f) Clients to voluntarily enroll in the insurance exchange, and broadened enrollment in employer-sponsored insurance when available and deemed cost-effective for the state, with authority to require clients to remain enrolled in their chosen plan for the calendar year;

(g) An expedited process of forty-five days or less in which the centers for medicare and medicaid services must respond to any state request for changes to the demonstration project once it is implemented to ensure that the state has the necessary flexibility to manage within its eligibility group per capita payment caps; and

(h) The development of an alternative payment methodology for federally qualified health centers and rural health clinics that enables capitated or global payment of enhanced payments.

(2) The department shall provide status reports to the joint legislative select committee on health reform implementation as requested by the committee.

(3) The department shall provide multiple opportunities for stakeholders and the general public to review and comment on the request as it developed.

(4) The department shall identify changes to state law necessary to ensure successful and timely implementation of the demonstration project."

Signed by Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Bailey; Clibborn; Green; Kelley; Moeller and Van De Wege.

MINORITY recommendation: Do not pass. Signed by Representatives Hinkle, Assistant Ranking Minority Member and Harris.

Referred to Committee on Ways & Means.

March 22, 2011

SB 5625 Prime Sponsor, Senator Harper: Authorizing implementation of a nonexpiring license for early learning providers. Reported by Committee on Early Learning & Human Services

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.215.260 and 2006 c 265 s 307 are each amended to read as follows:

(1) Each agency shall make application for a license or ~~((renewal of))~~ the continuation of a full license to the department on forms prescribed by the department. Upon receipt of such application, the department shall either grant or deny a license or continuation of a full license within ninety days. A license or continuation shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with ~~((the chapter))~~ this chapter, except that an initial license may be issued as provided in RCW 43.215.280. The department shall consider whether an agency is in good standing, as defined in subsection (4)(b) of this section, before granting a continuation of a full license. Full licenses provided for in this chapter shall ~~((be issued for a period of three years))~~ continue to remain valid so long as the licensee meets the requirements for a nonexpiring license in subsection (2) of this

section. The licensee, however, shall advise the director of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

(2) In order to qualify for a nonexpiring full license, a licensee must meet the following requirements on an annual basis as established from the date of initial licensure:

(a) Submit the annual licensing fee;

(b) Submit a declaration to the department indicating the licensee's intent to continue operating a licensed child care program, or the intent to cease operation on a date certain;

(c) Submit a declaration of compliance with all licensing rules; and

(d) Submit background check applications on the schedule established by the department.

(3) If a licensee fails to meet the requirements in subsection (2) of this section for continuation of a full license, the license expires and the licensee must submit a new application for licensure under this chapter.

(4)(a) The department shall establish time frames for monitoring visits of nonexpiring licensees not less than every eighteen months for family day care providers and not less than every twelve months for child day care centers and school-age programs. It is not the intent of the legislature to limit more frequent monitoring as determined by the department.

(b) For the purpose of this section, an agency is considered to be in good standing if in the intervening period between monitoring visits that agency does not have any of the following:

(i) Valid complaints;

(ii) A history of noncompliance related to those valid complaints or pending from prior monitoring visits; or

(iii) Other information that when evaluated would result in a finding of noncompliance with this section.

(c) The department shall consider whether an agency is in good standing when determining the most appropriate approach and process for monitoring visits, for the purposes of administrative efficiency while protecting children consistent with this chapter. If the department determines that an agency is not in good standing, the department may issue a probationary license, as provided in RCW 43.215.290.

Sec. 2. RCW 43.215.290 and 2006 c 265 s 310 are each amended to read as follows:

(1) The department may issue a probationary license to a licensee who has had ~~(a)~~ an initial, expiring, or other license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) Before issuing a probationary license, the department shall, in writing, refer the licensee to the child care resource and referral network or other appropriate resource for technical assistance. The department may issue a probationary license pursuant to subsection (1) of this section if within fifteen working days after the department has sent its referral:

(a) The licensee, in writing, has refused the department's referral for technical assistance; or

(b) The licensee has failed to respond in writing to the department's referral for technical assistance.

(3) If the licensee accepts the department's referral for technical assistance issued under subsection (2) of this section, the department,

the licensee, and the technical assistance provider shall meet within thirty days after the licensee's acceptance. The licensee and the department, in consultation with the technical assistance provider, shall develop a plan to correct the areas of noncompliance identified by the department. If after sixty days, the licensee has not corrected the areas of noncompliance identified in the plan developed in consultation with the technical assistance provider, the department may issue a probationary license pursuant to subsection (1) of this section.

(4) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

~~((3))~~ (5) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

~~((4))~~ (6) An existing license is invalidated when a probationary license is issued.

~~((5))~~ (7) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

~~((6))~~ (8) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

Sec. 3. RCW 43.215.270 and 2006 c 265 s 308 are each amended to read as follows:

(1) If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts.

(2) License renewal under this section does not apply to nonexpiring licenses described in RCW 43.215.260."

Correct the title.

Signed by Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dickerson; Goodman; Johnson; Orwall and Overstreet.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5633

Prime Sponsor, Senator Pridemore: Exempting agricultural fair premiums from the unclaimed property act. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle; Chandler; Cody; Dickerson; Haigh; Haler; Hinkle; Hunt; Kagi; Kenney; Ormsby; Parker; Ross; Schmick; Seaquist; Springer; Sullivan and Wilcox.

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

Passed to Committee on Rules for second reading.

March 22, 2011
 SSB 5691 Prime Sponsor, Committee on Human Services & Corrections: Streamlining the crime victims' compensation program. Reported by Committee on Public Safety & Emergency Preparedness

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature that eligible victims of crime who suffer bodily injury or death as a result of violent crime receive benefits under the crime victims' compensation program. To ensure benefits are provided, within funds available, to the largest number of eligible victims, it is imperative to streamline and provide flexibility in the administration of the program. Therefore, the legislature intends to simplify the administration of the benefits and services provided to victims of crime by separating the administration of the benefits and services provided to crime victims from the workers' compensation program under Title 51 RCW. These changes are intended to clarify that the limited funding available to help victims of crimes will be managed to help the largest number of crime victims as possible.

I. DEFINITIONS

Sec. 101. RCW 7.68.020 and 2006 c 268 s 1 are each amended to read as follows:

The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) ~~("Department" means the department of labor and industries. (2))~~ "Accredited school" means a school or course of instruction which _____ is:

(a) Approved by the state superintendent of public instruction, the state board of education, or the state board for community and technical colleges; or

(b) Regulated or licensed as to course content by any agency of the state or under any occupational licensing act of the state, or recognized by the apprenticeship council under an agreement registered with the apprenticeship council pursuant to chapter 49.04 RCW.

(2) "Average monthly wage" means the average annual wage as determined under RCW 50.04.355 as now or hereafter amended divided by twelve.

(3) "Beneficiary" means a husband, wife, registered domestic partner, or child of a victim in whom shall vest a right to receive payment under this chapter, except that a husband or wife of an injured victim, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received or attempted by process of law to collect funds for maintenance, shall be deemed living in a state of abandonment.

(4) "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the victim, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled as a full-time student in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a physical, mental, or sensory handicap.

(5) "Criminal act" means an act committed or attempted in this state which is: (a) Punishable as a federal offense that is comparable to a felony or gross misdemeanor in this state; (b) punishable as a felony or gross misdemeanor under the laws of this state; (c) an act committed outside the state of Washington against a resident of the

state of Washington which would be compensable had it occurred inside this state and the crime occurred in a state which does not have a crime victims' compensation program, for which the victim is eligible as set forth in the Washington compensation law; or (d) ~~(an act of terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2, 1997, committed outside of the United States against a resident of the state of Washington, except as follows))~~ trafficking as defined in RCW 9A.40.100. A "criminal act" does not include the following:

(i) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law ~~((does not constitute a "criminal act"))~~ unless:

(A) The injury or death was intentionally inflicted;

(B) The operation thereof was part of the commission of another nonvehicular criminal act as defined in this section;

(C) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained ~~(= PROVIDED, That)~~. In cases where a probable criminal defendant has died in perpetration of vehicular assault or, in cases where the perpetrator of the vehicular assault is unascertainable because he or she left the scene of the accident in violation of RCW 46.52.020 or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits;

(D) The injury or death was caused by a driver in violation of RCW 46.61.502; or

(E) The injury or death was caused by a driver in violation of RCW 46.61.655(7)(a), failure to secure a load in the first degree;

(ii) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in (d)(i)(C) of this subsection;

(iii) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

(iv) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

~~((3))~~ "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his or her good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "worker" as defined in chapter 51.08 RCW as now or hereafter amended.

~~(4)~~ "Child," "accredited school," "dependent," "beneficiary," "average monthly wage," "director," "injury," "invalid," "permanent partial disability," and "permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

~~(5))~~ (6) "Department" means the department of labor and industries.

(7) "Financial support for lost wages" means a partial replacement of lost wages due to a temporary or permanent total disability.

(8) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

~~((6))~~ (9) "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result

therefrom.

(10) "Invalid" means one who is physically or mentally incapacitated from earning wages.

(11) "Permanent total disability" means loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis, or other condition permanently incapacitating the victim from performing any work at any gainful occupation.

(12) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

((7)) (13) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(14) "Temporary total disability" means any condition that temporarily incapacitates a victim from performing any type of gainful employment as certified by the victim's attending physician.

(15) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his or her good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "worker" as defined in chapter 51.08 RCW as now or hereafter amended.

II. GENERAL PROVISIONS

NEW SECTION. Sec. 201. On all claims under this chapter, claimants' written or electronic notices, orders, or warrants must be forwarded directly to the claimant until such time as there has been entered an order on the claim appealable to the department. Claimants' written or electronic notices, orders, or warrants may be forwarded to the claimant in care of a representative before an order has been entered if the claimant sets forth in writing the name and address of the representative to whom the claimant desires this information to be forwarded.

NEW SECTION. Sec. 202. The department may, at any time, on receipt of written or electronic authorization, transmit amounts payable to a claimant or to the account of such person in a bank or other financial institution regulated by state or federal authority.

NEW SECTION. Sec. 203. (1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this chapter shall, before the issuance and delivery of the check or warrant, or disbursement of electronic funds or electronic payment, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a victim or other beneficiary and made in accordance with section 204 of this act.

(2)(a) If any victim suffers an injury and dies from it before he or she receives payment of any monthly installment covering financial support for lost wages for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) Any application for compensation under this subsection (2) shall be filed with the department within one year of the date of death. The department may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3) Any victim or beneficiary receiving benefits under this chapter who is subsequently confined in, or who subsequently

becomes eligible for benefits under this chapter while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the victim or beneficiary would, except for the provisions of this subsection (3), otherwise be eligible for them.

NEW SECTION. Sec. 204. Any victim or other recipient of benefits under this chapter may elect to have any payments due transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth in this section and proper endorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended.

NEW SECTION. Sec. 205. (1) The department may require that the victim present himself or herself for a special medical examination by a physician or physicians selected by the department, and the department may require that the victim present himself or herself for a personal interview. The costs of the examination or interview, including payment of any reasonable travel expenses, shall be paid by the department as part of the victim's total claim under RCW 7.68.070(1).

(2) The director may establish a medical bureau within the department to perform medical examinations under this section.

(3) Where a dispute arises from the handling of any claim before the condition of the injured victim becomes fixed, the victim may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In these cases, the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

Sec. 206. RCW 7.68.030 and 2009 c 479 s 7 are each amended to read as follows:

(1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. ((In so doing, the director shall, in accordance with chapter 34.05 RCW, adopt rules and regulations necessary to the administration of this chapter, and the provisions contained in chapter 51.04 RCW, including but not limited to RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or hereafter amended, shall apply where appropriate in keeping with the intent of this chapter.)) The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

(a) Establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW;

(b) Regulate the proof of accident and extent thereof, the proof of death, and the proof of relationship and the extent of dependency;

(c) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;

(d) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;

(e) Designate a medical director who is licensed under chapter

18.57 or 18.71 RCW:

(f) Supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to victims at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, electronic communications, rules, regulations, and practices for the furnishing of such care and treatment. The medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule. The department may recommend to a victim particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department, and the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured victims;

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, and physician assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16);

(h) Make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured victims, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

(3) The director and his or her authorized assistants:

(a) Have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department or any billing submitted to the department. The superior court has the power to enforce any such subpoena by proper proceedings;

(b)(i) May apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must (A) state that an order is sought pursuant to this subsection; (B) adequately specify the records, documents, or testimony; and (C) declare under oath that an investigation is being conducted for a

lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(ii) Where the application under this subsection (3)(b) is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(iii) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) In all hearings, actions, or proceedings before the department, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to the patient.

Sec. 207. RCW 7.68.075 and 1977 ex.s. c 302 s 6 are each amended to read as follows:

((Notwithstanding the provisions of any of the sections, as now or hereafter amended, of Title 51 RCW which are made applicable to)) Under this chapter, the marital status of all victims shall be deemed to be fixed as of the date of the criminal act. All references to the child or children living or conceived of the victim in this chapter shall be deemed to refer to such child or children as of the date of the criminal act unless the context clearly indicates the contrary.

Payments for or on account of any such child or children shall cease when such child is no longer a "child" ((as defined in RCW 51.08.030, as now or hereafter amended,)) or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person. It shall be the duty of any person or persons receiving payments because of legal custody of any child to immediately notify the department of any change in such legal custody.

III. APPLICATION FOR BENEFITS

Sec. 301. RCW 7.68.060 and 2001 c 153 s 1 are each amended to read as follows:

(1) Except for ((the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 shall apply: PROVIDED, That except for)) applications received pursuant to subsection ((4)) (6) of this section, no compensation of any kind shall be available under this chapter if:

(a) An application for benefits is not received by the department within two years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of ((dependents or)) beneficiaries accrued, unless the director has determined that "good cause" exists to expand the time permitted to receive the application. "Good cause" shall be determined by the department on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of ((dependents or)) beneficiaries accrued; or

(b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within

twelve months of its occurrence or, if it could not reasonably have been reported within that period, within twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

(2) ~~((This section shall apply only to criminal acts reported after December 31, 1985.~~

~~—(3)) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter when the injury for which benefits are sought, was:~~

~~(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;~~

~~(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or~~

~~(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.~~

~~(3) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator of the criminal act which gave rise to the claim.~~

~~(4) A victim is not eligible for benefits under this chapter if he or she:~~

~~(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after the criminal act for which they are applying; and~~

~~(b) Has not completely satisfied all legal financial obligations owed.~~

~~(5) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim.~~

~~((4) A right to)) (6)(a) Benefits under this chapter ((is) are available to any victim of a person against whom the state initiates proceedings under chapter 71.09 RCW. The right created under this subsection shall accrue when the victim is notified of proceedings under chapter 71.09 RCW or the victim is interviewed, deposed, or testifies as a witness in connection with the proceedings. An application for benefits under this subsection must be received by the department within two years after the date the victim's right accrued unless the director determines that good cause exists to expand the time to receive the application. The director shall determine "good cause" on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the right of the victim accrued. Benefits under this subsection shall be limited to compensation for costs or losses incurred on or after the date the victim's right accrues for a claim allowed under this subsection.~~

~~(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of~~

the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

NEW SECTION. Sec. 302. (1)(a) Where a victim is eligible for compensation under this chapter he or she shall file with the department his or her application for such, together with the certificate of the physician or licensed advanced registered nurse practitioner who attended him or her. An application form developed by the department shall include a notice specifying the victim's right to receive health services from a physician or licensed advanced registered nurse practitioner utilizing his or her private or public insurance or if no insurance, of the victim's choice under section 507 of this act.

(b) The physician or licensed advanced registered nurse practitioner who attended the injured victim shall inform the injured victim of his or her rights under this chapter and lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the victim.

(2) If the application required by this section is filed on behalf of the victim by the physician who attended the victim, the physician may transmit the application to the department electronically.

NEW SECTION. Sec. 303. Where death results from injury the parties eligible for compensation under this chapter, or someone in their behalf, shall make application for the same to the department, which application must be accompanied with proof of death and proof of relationship showing the parties to be eligible for compensation under this chapter, certificates of attending physician or licensed advanced registered nurse practitioner, if any, and such proof as required by the rules of the department.

NEW SECTION. Sec. 304. If change of circumstances warrants an increase or rearrangement of compensation, like application shall be made therefor. Where the application has been granted, compensation and other benefits if in order shall be allowed for periods of time up to sixty days prior to the receipt of such application.

NEW SECTION. Sec. 305. If injury or death results to a victim from the deliberate intention of the victim himself or herself to produce such injury or death, or while the victim is engaged in the attempt to commit, or the commission of, a felony, neither the victim nor the widow, widower, child, or dependent of the victim shall receive any payment under this chapter.

If injury or death results to a victim from the deliberate intention of a beneficiary of that victim to produce the injury or death, or if injury or death results to a victim as a consequence of a beneficiary of that victim engaging in the attempt to commit, or the commission of, a felony, the beneficiary shall not receive any payment under this chapter.

An invalid child, while being supported and cared for in a state institution, shall not receive compensation under this chapter.

No payment shall be made to or for a natural child of a deceased victim and, at the same time, as the stepchild of a deceased victim.

NEW SECTION. Sec. 306. Except as otherwise provided by treaty or this chapter, whenever compensation is payable to a beneficiary who is an alien not residing in the United States, the department shall pay the compensation to which a resident beneficiary is eligible under this chapter. But if a nonresident alien beneficiary is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident aliens, he or she shall receive no compensation. No payment shall be made to any beneficiary residing in any country with which the United States does not maintain diplomatic relations when such payment is due.

NEW SECTION. Sec. 307. Physicians or licensed advanced registered nurse practitioners examining or attending injured victims under this chapter shall comply with rules and regulations adopted by

the director, and shall make such reports as may be requested by the department upon the condition or treatment of any such victim, or upon any other matters concerning such victims in their care. Except under RCW 49.17.210 and 49.17.250, all medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any victim whose injury is the basis of a claim under this chapter shall be made available at any stage of the proceedings to the claimant's representative and the department upon request, and no person shall incur any legal liability by reason of releasing such information.

IV. BENEFITS

Sec. 401. RCW 7.68.070 and 2010 c 289 s 6 and 2010 c 122 s 1 are each reenacted and amended to read as follows:

The ~~((right to))~~ eligibility for benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in this chapter ~~((51.32 RCW except as provided in this section, provided that no more than fifty thousand dollars shall be paid per claim:))~~.

~~(1) ((The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.~~

~~(2))~~ Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or ~~((dependents))~~ beneficiary in case of death of the victim, are ~~((entitled to))~~ eligible for benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. ~~((The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.~~

~~(3)(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:~~

~~(i) The result of consent, provocation, or incitement by the victim; unless an injury resulting from a criminal act caused the death of the victim;~~

~~(ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or~~
~~(iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.~~

~~(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.~~

~~(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter, except that:~~

~~(a)) No more than fifty thousand dollars shall be paid in total per claim, of which nonmedical benefits shall not exceed forty thousand dollars of the entire claim. Benefits may include a combination of burial expenses, financial support for lost wages, and medical expenses.~~

~~(a) Benefits payable for temporary total disability that results in financial support for lost wages shall not exceed fifteen thousand dollars.~~

~~(b) Benefits payable for a permanent total disability or fatality that results in financial support for lost wages shall not exceed forty~~

~~thousand dollars. After at least twelve monthly payments have been paid, the department shall have the sole discretion to make a final lump sum payment of the balance remaining.~~

~~(c) Benefits for disposition of remains or burial expenses shall not exceed five thousand seven hundred fifty dollars per claim.~~

~~(2) If the victim was not gainfully employed at the time of the criminal act, no financial support for lost wages will be paid to the victim or any beneficiaries.~~

~~(3) No victim or beneficiary shall receive compensation for or during the day on which the injury was received.~~

~~(4) If a victim's employer continues to pay the victim's wages that he or she was earning at the time of the crime, the victim shall not receive any financial support for lost wages.~~

~~(5) When the director determines that a temporary total disability results in a loss of wages, the victim shall receive monthly subject to subsection (1) of this section, during the period of disability, sixty percent of the victim's monthly wage but no more than one hundred percent of the state's average monthly wage as defined in RCW 7.68.020. The minimum monthly payment shall be no less than five hundred dollars. Monthly wages shall be based upon employer wage statements, employment security records, or documents reported to and certified by the internal revenue service. Monthly wages must be determined using the actual documented monthly wage or averaging the total wages earned for up to twelve successive calendar months preceding the injury. In cases where the victim's wages and hours are fixed, they shall be determined by multiplying the daily wage the victim was receiving at the time of the injury:~~

~~(a) By five, if the victim was normally employed one day a week;~~

~~(b) By nine, if the victim was normally employed two days a week;~~

~~(c) By thirteen, if the victim was normally employed three days a week;~~

~~(d) By eighteen, if the victim was normally employed four days a week;~~

~~(e) By twenty-two, if the victim was normally employed five days a week;~~

~~(f) By twenty-six, if the victim was normally employed six days a week; or~~

~~(g) By thirty, if the victim was normally employed seven days a week.~~

~~(6) When the director determines that a permanent total disability or death results in a loss of wages, the victim or eligible spouse shall receive the monthly payments established in this subsection, not to exceed forty thousand dollars or the limits established in this chapter.~~

~~(7) If the director determines that the victim is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.~~

~~(8) In the case of death, if there is no eligible spouse, benefits shall be paid to the child or children of the deceased victim. If there is no spouse or children, no payments shall be made under this section. If the spouse remarries before this benefit is paid in full benefits shall be paid to the victim's child or children and the spouse shall not receive further payment. If there is no child or children no further payments will be made.~~

~~(9) The benefits for disposition of remains or burial expenses shall not exceed five thousand seven hundred fifty dollars per claim((:)) and~~

~~((b) An application for benefits relating to payment for burial expenses, pursuant to this subsection, must be received within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for burial, application for benefits must be received within twelve months of the date of the release of the remains for burial)) to receive reimbursement for expenses related to the disposition of remains or burial, the department must receive an itemized statement from a provider of services within twelve months~~

of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for disposition or burial, an itemized statement from a provider of services must be received within twelve months of the date of the release of the remains.

~~((5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter, except that if a victim becomes permanently and totally disabled as a proximate result of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:~~

~~—(a) If married at the time of the criminal act, twenty nine percent of the average monthly wage.~~

~~—(b) If married with one child at the time of the criminal act, thirty four percent of the average monthly wage.~~

~~—(c) If married with two children at the time of the criminal act, thirty eight percent of the average monthly wage.~~

~~—(d) If married with three children at the time of the criminal act, forty one percent of the average monthly wage.~~

~~—(e) If married with four children at the time of the criminal act, forty four percent of the average monthly wage.~~

~~—(f) If married with five or more children at the time of the criminal act, forty seven percent of the average monthly wage.~~

~~—(g) If unmarried at the time of the criminal act, twenty five percent of the average monthly wage.~~

~~—(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.~~

~~—(i) If unmarried with two children at the time of the criminal act, thirty four percent of the average monthly wage.~~

~~—(j) If unmarried with three children at the time of the criminal act, thirty seven percent of the average monthly wage.~~

~~—(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.~~

~~—(l) If unmarried with five or more children at the time of the criminal act, forty three percent of the average monthly wage.~~

~~—(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter, but shall not exceed seven thousand dollars per claim.~~

~~—(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter, except that no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act.~~

~~—(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter, except that benefits shall not exceed five thousand dollars for any single injury.~~

~~—(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.~~

~~—(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.~~

~~—(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend~~

~~and convict the perpetrator(s) of the criminal act which gave rise to the claim.~~

~~—(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.~~

~~—(13) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.~~

~~—(14)) (10) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.~~

~~((15)) (11) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act((, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement)).~~

~~((16) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.~~

~~—(17) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.~~

~~—(18)) (12) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060((4)) (6) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.~~

~~((19) A victim is not eligible for benefits under this act if such victim:~~

~~—(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after applying; and~~

~~—(b) Has not completely satisfied all legal financial obligations owed prior to applying for benefits.))~~

(13) If the provisions of this title relative to compensation for injuries to or death of victims become invalid because of any adjudication, or are repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement

of any action relating to such injury or death.

(14) The benefits established in RCW 51.32.080 for permanent partial disability will not be provided to any crime victim or for any claim submitted on or after July 1, 2011.

Sec. 402. RCW 7.68.070 and 2010 c 289 s 6 are each amended to read as follows:

The ~~((right to))~~ eligibility for benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in this chapter ~~((51.32 RCW except as provided in this section:)),~~

~~(1) ((The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.~~

~~(2))~~ Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or ~~((dependents))~~ beneficiary in case of death of the victim, are ~~((entitled to))~~ eligible for benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. ~~((The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.~~

~~(3)(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:~~

~~(i) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;~~

~~(ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or~~

~~(iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.~~

~~(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.~~

~~(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter. Benefits for burial expenses shall not exceed the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim. If the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;~~

~~(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;~~

~~(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among~~

~~such child or children;~~

~~(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;~~

~~(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children. No other benefits may be paid or payable under these circumstances.~~

~~(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:~~

~~(a) If married at the time of the criminal act, twenty nine percent of the average monthly wage.~~

~~(b) If married with one child at the time of the criminal act, thirty four percent of the average monthly wage.~~

~~(c) If married with two children at the time of the criminal act, thirty eight percent of the average monthly wage.~~

~~(d) If married with three children at the time of the criminal act, forty one percent of the average monthly wage.~~

~~(e) If married with four children at the time of the criminal act, forty four percent of the average monthly wage.~~

~~(f) If married with five or more children at the time of the criminal act, forty seven percent of the average monthly wage.~~

~~(g) If unmarried at the time of the criminal act, twenty five percent of the average monthly wage.~~

~~(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.~~

~~(i) If unmarried with two children at the time of the criminal act, thirty four percent of the average monthly wage.~~

~~(j) If unmarried with three children at the time of the criminal act, thirty seven percent of the average monthly wage.~~

~~(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.~~

~~(l) If unmarried with five or more children at the time of the criminal act, forty three percent of the average monthly wage.~~

~~(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.~~

~~(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter. No person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.~~

~~(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment~~

~~contained in that section apply under this chapter. Benefits shall not exceed five thousand dollars for any single injury.~~

~~(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.~~

~~(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.~~

~~(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.~~

~~(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.~~

~~(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.~~

~~(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.) Of the entire amount paid in total per claim, nonmedical benefits shall not exceed forty thousand dollars of the entire claim. Benefits may include a combination of burial expenses, financial support for lost wages, and medical expenses.~~

~~(a) Benefits payable for temporary total disability that results in financial support for lost wages shall not exceed fifteen thousand dollars.~~

~~(b) Benefits payable for a permanent total disability or fatality that results in financial support for lost wages shall not exceed forty thousand dollars. After at least twelve monthly payments have been paid, the department shall have the sole discretion to make a final lump sum payment of the balance remaining.~~

~~(c) Benefits for disposition of remains or burial expenses shall not exceed seven thousand seven hundred dollars per claim.~~

~~(2) If the victim was not gainfully employed at the time of the criminal act, no financial support for lost wages will be paid to the victim or any beneficiaries.~~

~~(3) No victim or beneficiary shall receive compensation for or during the day on which the injury was received.~~

~~(4) If a victim's employer continues to pay the victim wages that he or she was earning at the time of the crime, the victim shall not receive any financial support for lost wages.~~

~~(5) When the director determines that a temporary total disability results in a loss of wages, the victim shall receive monthly subject to subsection (1) of this section, during the period of disability, sixty percent of the victim's monthly wage but no more than one hundred percent of the state's average monthly wage as defined in RCW 7.68.020. The minimum monthly payment shall be no less than five hundred dollars. Monthly wages shall be based upon employer wage statements, employment security records, or documents reported to and certified by the internal revenue service. Monthly wages must be determined using the actual documented monthly wage or averaging the total wages earned for up to twelve successive calendar months preceding the injury. In cases where the victim's wages and hours are~~

~~fixed, they shall be determined by multiplying the daily wage the victim was receiving at the time of the injury:~~

~~(a) By five, if the victim was normally employed one day a week;~~

~~(b) By nine, if the victim was normally employed two days a week;~~

~~(c) By thirteen, if the victim was normally employed three days a week;~~

~~(d) By eighteen, if the victim was normally employed four days a week;~~

~~(e) By twenty-two, if the victim was normally employed five days a week;~~

~~(f) By twenty-six, if the victim was normally employed six days a week; or~~

~~(g) By thirty, if the victim was normally employed seven days a week.~~

~~(6) When the director determines that a permanent total disability or death results in a loss of wages the victim or eligible spouse shall receive the monthly payments established in this subsection, not to exceed forty thousand dollars or the limits established in this chapter.~~

~~(7) If the director determines that the victim is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.~~

~~(8) In the case of death, if there is no eligible spouse, benefits shall be paid to the child or children of the deceased victim. If there is no spouse or children, no payments shall be made under this section. If the spouse remarries before this benefit is paid in full benefits shall be paid to the victim's child or children and the spouse shall not receive further payment. If there is no child or children no further payments will be made.~~

~~(9) To receive reimbursement for expenses related to the disposition of remains or burial, the department must receive an itemized statement from a provider of services within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for disposition or burial, an itemized statement from a provider of services must be received within twelve months of the date of the release of the remains.~~

~~((15)) (10) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.~~

~~((16)) (11) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act(, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement)).~~

~~((17) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.~~

~~(18) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump sum payment of seven thousand five~~

~~hundred dollars shall be divided equally among the dependent parents.~~

~~(19))~~ (12) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(~~((4))~~) (6) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

(13) If the provisions of this title relative to compensation for injuries to or death of victims become invalid because of any adjudication, or are repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death.

(14) Beginning July 1, 2015, applying only prospectively to criminal acts occurring on or after July 1, 2015, the benefits established in RCW 51.32.080 for permanent partial disability shall be obtainable under this chapter, and provisions relating to payment contained in that section shall equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(15) Beginning July 1, 2015, applying only prospectively to criminal acts occurring on or after July 1, 2015, the department may make payments for home or vehicle modifications solely according to the following terms and limitations:

(a) Whenever in the sole discretion of the director it is reasonable and necessary to provide residence modifications necessary to meet the needs and requirements of the victim who has sustained catastrophic injury, the department may be ordered to pay an amount not to exceed the state's average annual wage for one year as determined under RCW 50.04.355, as now existing or hereafter amended, toward the cost of such modifications or construction. Such payment shall only be made for the construction or modification of a residence in which the injured victim resides. Only one residence of any victim may be modified or constructed under this subsection, although the director may order more than one payment for any one home, up to the maximum amount permitted under RCW 7.68.070.

(b) Whenever in the sole discretion of the director it is reasonable and necessary to modify a motor vehicle owned by a victim who has become an amputee or becomes paralyzed because of a criminal act, the director may order up to fifty percent of the state's average annual wage for one year, as determined under RCW 50.04.355, to be paid by the department toward the costs thereof.

(c) In the sole discretion of the director after his or her review, the amount paid under this subsection may be increased by no more than four thousand dollars by written order of the director.

NEW SECTION. Sec. 403. (1) Benefits for permanent total disability shall be determined under the director's supervision, only after the injured victim's condition becomes fixed.

(2) All determinations of permanent total disabilities shall be made by the department. The victim may make a request or the inquiry may be initiated by the director. Determinations shall be required in every instance where permanent total disability is likely to be present.

(3) A request for determination of permanent total disability shall be examined by the department, and the department shall issue an order in accordance with RCW 51.52.050.

NEW SECTION. Sec. 404. (1) If aggravation, diminution, or termination of disability takes place, the director may, upon the application of the beneficiary, made within seven years from the date the first closing order becomes final, or at any time upon his or her own motion, readjust the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment. The director may, upon application of the

victim made at any time, provide proper and necessary medical and surgical services as authorized under section 507 of this act.

(2) "Closing order" as used in this section means an order based on factors which include medical recommendation, advice, examination, or the maximum benefit has been met.

NEW SECTION. Sec. 405. (1) For persons receiving compensation for temporary total disability pursuant to the provisions of this chapter, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors, and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 U.S.C. Sec. 424a. However, such reduction shall not apply when the combined compensation provided pursuant to this chapter and the federal old-age, survivors, and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal.

(2) Any reduction under subsection (1) of this section shall be effective the month following the month in which the department is notified by the federal social security administration that the person is receiving disability benefits under the federal old-age, survivors, and disability insurance act. In the event of an overpayment of benefits, the department may not recover more than the overpayments for the six months immediately preceding the date on which the department notifies the victim that an overpayment has occurred. Upon determining that there has been an overpayment, the department shall immediately notify the person who received the overpayment that he or she shall be required to make repayment pursuant to this section and section 702 of this act.

(3) Recovery of any overpayment must be taken from future temporary or permanent total disability benefits or permanent partial disability benefits provided by this chapter. In the case of temporary or permanent total disability benefits, the recovery shall not exceed twenty-five percent of the monthly amount due from the department or one-sixth of the total overpayment, whichever is the lesser.

(4) No reduction may be made unless the victim receives notice of the reduction prior to the month in which the reduction is made.

(5) In no event shall the reduction reduce total benefits to less than the greater amount the victim may be eligible under this chapter or the federal old-age, survivors, and disability insurance act.

(6) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any overpayment where the recovery would be against equity and good conscience.

(7) Subsection (1) of this section applies to:

(a) Victims under the age of sixty-two whose effective entitlement to total disability compensation begins before January 2, 1983;

(b) Victims under the age of sixty-five whose effective entitlement to total disability compensation begins after January 1, 1983; and

(c) Victims who will become sixty-five years of age on or after June 10, 2004.

(8)(a) If the federal social security administration makes a retroactive reduction in the federal social security disability benefit entitlement of a victim for periods of temporary total, temporary partial, or total permanent disability for which the department also reduced the victim's benefit amounts under this section, the department shall make adjustments in the calculation of benefits and pay the additional benefits to the victim as appropriate. However, the department shall not make changes in the calculation or pay

additional benefits unless the victim submits a written request, along with documentation satisfactory to the director of an overpayment assessment by the social security administration, to the department.

(b) Additional benefits paid under this subsection:

(i) Are paid without interest and without regard to whether the victim's claim under this chapter is closed; and

(ii) Do not affect the status or the date of the claim's closure.

(c) This subsection does not apply to requests on claims for which a determination on the request has been made and is not subject to further appeal.

NEW SECTION. Sec. 406. Victims otherwise eligible for compensation under this chapter may also claim compensation for loss of or damage to the victim's personal clothing or footwear incurred in the course of emergency medical treatment for injuries.

NEW SECTION. Sec. 407. A beneficiary shall at all times furnish the department with proof satisfactory to the director of the nature, amount, and extent of the contribution made by the deceased victim.

V. MEDICAL BENEFITS

Sec. 501. RCW 7.68.080 and 1990 c 3 s 503 are each amended to read as follows:

~~(The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:~~

~~—(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;~~

~~—(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply;~~

~~PROVIDED, That:~~
~~(a)) (1) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed ((from the fund established pursuant to RCW 7.68.090; and)) by the department as part of the victim's total claim under RCW 7.68.070(1).~~

~~((b)) (2) In the case of alleged rape or molestation of a child, the reasonable costs of a colposcope examination shall be reimbursed ((from the fund pursuant to RCW 7.68.090)) by the department as part of the victim's total claim under RCW 7.68.070(1).~~

~~(3) The director shall adopt rules for fees and charges for hospital, clinic, ((and)) medical ((charges along with all related fees under this chapter shall conform to regulations promulgated by the director)), and other health care services, including fees and costs for durable medical equipment, eye glasses, hearing aids, and other medically necessary devices for crime victims under this chapter. The director shall set these service levels and fees at a level no lower than those established by the department of social and health services under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.~~

~~(4) Whenever the director deems it necessary in order to resolve any medical issue, a victim shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination. The department shall provide the physician performing an examination with all relevant medical records from the victim's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the crime victims' compensation fund. If the examination is paid for by the victim, then the cost of said examination shall be reimbursed to the victim for reasonable costs connected with the examination as part of the victim's total claim under RCW 7.68.070(1).~~

~~(5) Victims of sexual assault are eligible to receive appropriate counseling. Fees for such counseling shall be determined by the department. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.~~

~~(6) Immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Up to twelve counseling sessions may be received for one year after the crime victim's claim has been allowed. Fees for counseling shall be determined by the department in accordance with and subject to this section. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.~~

~~(7) Pursuant to RCW 7.68.070(12), a victim of a sex offense that occurred outside of Washington may be eligible to receive mental health counseling related to participation in proceedings to civilly commit a perpetrator.~~

~~(8) The crime victims' compensation program shall consider payment of benefits solely for the effects of the criminal act.~~

~~(9) The legislature finds and declares it to be in the public interest of the state of Washington that a proper regulatory and inspection program be instituted in connection with the provision of any services provided to crime victims pursuant to this chapter. In order to effectively accomplish such purpose and to assure that the victim receives such services as are paid for by the state of Washington, the acceptance by the victim of such services, and the request by a provider of services for reimbursement for providing such services, shall authorize the director of the department or the director's authorized representative to inspect and audit all records in connection with the provision of such services. In the conduct of such audits or investigations, the director or the director's authorized representatives may:~~

~~(a) Examine all records, or portions thereof, including patient records, for which services were rendered by a health care provider and reimbursed by the department, notwithstanding the provisions of any other statute which may make or purport to make such records privileged or confidential, except that no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information obtained under authority of this section by the department is prohibited and constitutes a violation of RCW 42.52.050, unless such disclosure is directly connected to the official duties of the department. The disclosure of patient information as required under this section shall not subject any physician, licensed advanced registered nurse practitioner, or other health care provider to any liability for breach of any confidential relationships between the provider and the patient. The director or the director's authorized representative shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation, or proceedings;~~

~~(b) Approve or deny applications to participate as a provider of services furnished to crime victims pursuant to this title;~~

~~(c) Terminate or suspend eligibility to participate as a provider of services furnished to victims pursuant to this title; and~~

~~(d) Pursue collection of unpaid overpayments and/or penalties plus interest accrued from health care providers pursuant to RCW 51.32.240(6).~~

~~(10) When contracting for health care services and equipment, the department, upon request of a contractor, shall keep confidential financial and valuable trade information, which shall be exempt from public inspection and copying under chapter 42.56 RCW.~~

Sec. 502. RCW 7.68.085 and 2010 c 122 s 2 are each amended to read as follows:

(1) This section has no force or effect from April 1, 2010, until July 1, 2015.

(2) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. ~~((Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are: (a) Necessary for a previously accepted condition; (b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and (c) Not available from an alternative source.))~~

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

(3) This section applies prospectively only to criminal acts that occur on or after July 1, 2015.

Sec. 503. RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

~~(1) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. ((Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are: (1) Necessary for a previously accepted condition; (2) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and (3) Not available from an alternative source.))~~

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

(2) This section applies prospectively only to criminal acts that occur on or after July 1, 2015.

NEW SECTION. Sec. 504. Health care professionals providing treatment or services to crime victims shall maintain all proper credentials and educational standards as required by law, and be registered with the department of health. The crime victims' compensation program does not pay for experimental or controversial treatment. Treatment shall be evidence-based and curative.

NEW SECTION. Sec. 505. The department shall examine the credentials of persons conducting special medical examinations and shall monitor the quality and objectivity of examinations and reports. The department shall adopt rules to ensure that examinations are performed only by qualified persons meeting department standards.

NEW SECTION. Sec. 506. (1) Any victim eligible to receive any benefits or claiming such under this title shall, if requested by the department submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the victim as may be provided by the rules of the department. An injured victim, whether an alien or other injured victim, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department.

(2) If the victim refuses to submit to medical examination, or obstructs the same, or, if any injured victim shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical

treatment as is reasonably essential to his or her recovery does not cooperate in reasonable efforts at such rehabilitation, the department may suspend any further action on any claim of such victim so long as such refusal, obstruction, noncooperation, or practice continues and thus, the department may reduce, suspend, or deny any compensation for such period. The department may not suspend any further action on any claim of a victim or reduce, suspend, or deny any compensation if a victim has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment, or practice requested by the department or required under this section.

(3) If the victim necessarily incurs traveling expenses in attending the examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her upon proper voucher and audit.

(4) If the medical examination required by this section causes the victim to be absent from his or her work without pay, the victim shall be paid compensation in an amount equal to his or her usual wages for the time lost from work while attending the medical examination when the victim is insured by the department.

NEW SECTION. Sec. 507. Upon the occurrence of any injury to a victim eligible for compensation under the provisions of this chapter, he or she shall receive proper and necessary medical and surgical services using his or her private or public insurance or if no insurance, using a provider of his or her own choice. In all accepted claims, treatment shall be limited in point of duration as follows:

(1) No treatment shall be provided once the victim has received the maximum compensation under this chapter.

(2) In case of temporary disability, treatment shall not extend beyond the time when monthly allowances to him or her shall cease. After any injured victim has returned to his or her work, his or her medical and surgical treatment may be continued if, and so long as, such continuation is determined by the director to be necessary to his or her recovery, and as long as the victim has not received the maximum compensation under this chapter.

NEW SECTION. Sec. 508. Any medical provider who fails, neglects, or refuses to file a report with the director, as required by this chapter, within five days of the date of treatment, showing the condition of the injured victim at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured victim, as required by this chapter, shall be subject to a civil penalty determined by the director but not to exceed two hundred fifty dollars. The amount shall be paid into the crime victims' compensation account.

VI. APPEALS

NEW SECTION. Sec. 601. (1)(a) If the victim or beneficiary in a claim prevails in an appeal by any party to the department or the court, the department shall comply with the department or court's order with respect to the payment of compensation within the later of the following time periods:

(i) Sixty days after the compensation order has become final and is not subject to review or appeal; or

(ii) If the order has become final and is not subject to review or appeal and the department has, within the period specified in (a)(i) of this subsection, requested the filing by the victim or beneficiary of documents necessary to make payment of compensation, sixty days after all requested documents are filed with the department.

The department may extend the sixty-day time period for an additional thirty days for good cause.

(b) If the department fails to comply with (a) of this subsection, any person eligible for compensation under the order may institute proceedings for injunctive or other appropriate relief for enforcement of the order. These proceedings may be instituted in the superior court for the county in which the claimant resides, or, if the claimant is not then a resident of this state, in the superior court for Thurston county.

(2) In a proceeding under this section, the court shall enforce obedience to the order by proper means, enjoining compliance upon the person obligated to comply with the compensation order. The court may issue such writs and processes as are necessary to carry out its orders and may award a penalty of up to one thousand dollars to the person eligible for compensation under the order.

(3) A proceeding under this section does not preclude other methods of enforcement provided for in this chapter.

VII. ERRONEOUS PAYMENT DUE TO ERROR OR PAYMENT DUE TO MISREPRESENTATION

Sec. 701. RCW 7.68.125 and 1995 c 33 s 2 are each amended to read as follows:

(1)(a) Whenever any payment ((under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed that any claim therefor has been waived. The department may exercise its discretion to waive, in whole or in part, the amount of any such timely claim.

(2) Whenever any payment under this chapter has been made pursuant to an adjudication by the department, board, or any court and timely appeal therefrom has been made and the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department may exercise its discretion to waive, in whole or in part, the amount thereof.

(3) Whenever any payment under this chapter has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient under this chapter and the amount of the penalty shall be placed in the fund or funds established pursuant to RCW 7.68.090.

(4) If the department issues an order contending a debt due and owing under this section, the order is subject to chapter 51.52 RCW. If the order becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount stated in the order plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately enter the warrant in the execution docket. The amount of the warrant as docketed becomes a lien upon all real and personal property of the person against whom the warrant is issued, the same as a judgment in a civil case. The warrant shall then be subject to execution, garnishment, and other procedures for the collection of judgments. The filing fee must be added to the amount of the warrant. The department shall mail a conformed copy of the warrant to the person named within seven working days of filing with the clerk.

(5)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a final order of debt due and owing has been entered. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within

twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150) of benefits under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the crime victims' compensation program. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3) and (4) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the crime victims' compensation programs subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department or an appeal with the department within ninety days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever any payment of benefits under this chapter has been made pursuant to an adjudication by the department or by order of any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(b) The department shall first attempt recovery of overpayments for health services from any entity that provided health insurance to

the victim to the extent that the health insurance entity would have provided health insurance benefits.

(4)(a) Whenever any payment of benefits under this chapter has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the crime victims' compensation program against whom the willful misrepresentation was committed and the amount of such penalty shall be placed in the crime victims' compensation fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (4), it is willful misrepresentation for a person to obtain payments or other benefits under this chapter in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (4), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this chapter.

(d) For purposes of this subsection (4), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (4), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages.

(5) The victim, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (4) of this section, the director or director's designee may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the victim, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the victim, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the victim, beneficiary, or other person

within three days of filing with the clerk.

The director or director's designee may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any victim, beneficiary, or other person upon whom a warrant has been served for payments due the department. The notice and order to withhold and deliver shall be served by certified mail accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director or director's designee, or by electronic means or other methods authorized by law. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director or the director's designee in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991. This subsection shall apply retroactively to all orders assessing an overpayment resulting from willful misrepresentation, civil or criminal.

(6) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department.

NEW SECTION. Sec. 702. Notwithstanding any other provisions of law, any overpayments previously recovered under the provisions of section 405 of this act as now or hereafter amended shall be limited to six months' overpayments. Where greater recovery has already been made, the director, in his or her discretion, may make restitution in those cases where an extraordinary hardship has been created.

Sec. 703. RCW 7.68.130 and 1995 c 33 s 3 are each amended to read as follows:

(1) Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance available, less a proportionate share of reasonable attorneys' fees and costs, if any, incurred by the victim in obtaining recovery from the insurer. Calculation of a proportionate share of attorneys' fees and costs shall be made under the formula established in RCW ~~((51.24.060))~~ 7.68.050 (9) through (14). The department or the victim may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(2) Benefits payable after 1980 to victims injured or killed before 1980 shall be reduced by any other public or private insurance including but not limited to social security.

(3) Payment by the department under this chapter shall be secondary to other insurance benefits, notwithstanding the provision of any contract or coverage to the contrary. In the case of private life

insurance proceeds, the first forty thousand dollars of the proceeds shall not be considered for purposes of any reduction in benefits.

(4) If the department determines that a victim is likely to be eligible for other public insurance or support services, the department may require the applicant to apply for such services before awarding benefits under RCW 7.68.070. If the department determines that a victim shall apply for such services and the victim refuses or does not apply for those services, the department may deny any further benefits under this chapter. The department may require an applicant to provide a copy of their determination of eligibility before providing benefits under this chapter.

(5) Before payment of benefits will be considered victims shall use their private insurance coverage.

(6) For the purposes of this section, the collection methods available under RCW 7.68.125((4)) (5) apply.

Sec. 704. RCW 7.68.050 and 1998 c 91 s 1 are each amended to read as follows:

(1) No right of action at law for damages incurred as a consequence of a criminal act shall be lost as a consequence of being entitled to benefits under the provisions of this chapter. The victim or his beneficiary may elect to seek damages from the person or persons liable for the claimed injury or death, and such victim or beneficiary is entitled to the full compensation and benefits provided by this chapter regardless of any election or recovery made pursuant to this section.

(2) For the purposes of this section, the rights, privileges, responsibilities, duties, limitations, and procedures contained in ((RCW 51.24.050 through 51.24.110)) subsections (3) through (25) of this section apply.

(3) (If the recovery involved is against the state, the lien of the department includes the interest on the benefits paid by the department to or on behalf of such person under this chapter computed at the rate of eight percent per annum from the date of payment.) (a) If a third person is or may become liable to pay damages on account of a victim's injury for which benefits and compensation are provided under this chapter, the injured victim or beneficiary may elect to seek damages from the third person.

(b) In every action brought under this section, the plaintiff shall give notice to the department when the action is filed. The department may file a notice of statutory interest in recovery. When such notice has been filed by the department, the parties shall thereafter serve copies of all notices, motions, pleadings, and other process on the department. The department may then intervene as a party in the action to protect its statutory interest in recovery.

(c) For the purposes of this subsection, "injury" includes any physical or mental condition, disease, ailment, or loss, including death, for which compensation and benefits are paid or payable under this chapter.

(d) For the purposes of this chapter, "recovery" includes all damages and insurance benefits, including life insurance, paid in connection with the victim's injuries or death.

(4) An election not to proceed against the third person operates as an assignment of the cause of action to the department, which may prosecute or compromise the action in its discretion in the name of the victim, beneficiary, or legal representative.

(5) If an injury to a victim results in the victim's death, the department to which the cause of action has been assigned may petition a court for the appointment of a special personal representative for the limited purpose of maintaining an action under this chapter and chapter 4.20 RCW.

(6) If a beneficiary is a minor child, an election not to proceed against a third person on such beneficiary's cause of action may be exercised by the beneficiary's legal custodian or guardian.

(7) Any recovery made by the department shall be distributed as follows:

(a) The department shall be paid the expenses incurred in making

the recovery including reasonable costs of legal services;

(b) The victim or beneficiary shall be paid twenty-five percent of the balance of the recovery made, which shall not be subject to subsection (8) of this section, except that in the event of a compromise and settlement by the parties, the victim or beneficiary may agree to a sum less than twenty-five percent;

(c) The department shall be paid the amount paid to or on behalf of the victim or beneficiary by the department; and

(d) The victim or beneficiary shall be paid any remaining balance.

(8) Thereafter no payment shall be made to or on behalf of a victim or beneficiary by the department for such injury until any further amount payable shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department to or on behalf of the victim or beneficiary as though no recovery had been made from a third person.

(9) If the victim or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the victim or beneficiary and the department. The department may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees;

(b) The victim or beneficiary shall be paid twenty-five percent of the balance of the award, except that in the event of a compromise and settlement by the parties, the victim or beneficiary may agree to a sum less than twenty-five percent;

(c) The department shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department for the amount paid;

(i) The department shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the victim or beneficiary to the extent of the benefits paid under this title. The department's proportionate share shall not exceed one hundred percent of the costs and reasonable attorneys' fees;

(ii) The department's proportionate share of the costs and reasonable attorneys' fees shall be determined by dividing the gross recovery amount into the benefits paid amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the victim or beneficiary;

(iii) The department's reimbursement share shall be determined by subtracting their proportionate share of the costs and reasonable attorneys' fees from the benefits paid amount;

(d) Any remaining balance shall be paid to the victim or beneficiary; and

(e) Thereafter no payment shall be made to or on behalf of a victim or beneficiary by the department for such injury until the amount of any further amount payable shall equal any such remaining balance minus the department's proportionate share of the costs and reasonable attorneys' fees in regards to the remaining balance. This proportionate share shall be determined by dividing the gross recovery amount into the remaining balance amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the victim or beneficiary. Thereafter, such benefits shall be paid by the department to or on behalf of the victim or beneficiary as though no recovery had been made from a third person.

(10) The recovery made shall be subject to a lien by the department for its share under this section. Notwithstanding RCW 48.18.410, a recovery made from life insurance shall be subject to a lien by the department.

(11) The department has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the victim or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(12) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(13) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by electronic, registered or certified mail, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such victim or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the victim or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the victim or beneficiary within three days of filing with the clerk.

(14) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any victim or beneficiary upon whom a warrant has been served by the department for payments due to the crime victims' compensation program. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy; by certified mail, return receipt requested; or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver

is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

(15) The department may require the victim or beneficiary to exercise the right of election under this chapter by serving a written demand by electronic mail, registered mail, certified mail, or personal service on the victim or beneficiary.

(16) Unless an election is made within sixty days of the receipt of the demand, and unless an action is instituted or settled within the time granted by the department, the victim or beneficiary is deemed to have assigned the action to the department. The department shall allow the victim or beneficiary at least ninety days from the election to institute or settle the action. When a beneficiary is a minor child the demand shall be served upon the legal custodian or guardian of such beneficiary.

(17) If an action which has been filed is not diligently prosecuted, the department may petition the court in which the action is pending for an order assigning the cause of action to the department. Upon a sufficient showing of a lack of diligent prosecution the court in its discretion may issue the order.

(18) If the department has taken an assignment of the third party cause of action under subsection (16) of this section, the victim or beneficiary may, at the discretion of the department, exercise a right of reelection and assume the cause of action subject to reimbursement of litigation expenses incurred by the department.

(19) If the victim or beneficiary elects to seek damages from the third person, notice of the election must be given to the department. The notice shall be by registered mail, certified mail, or personal service. If an action is filed by the victim or beneficiary, a copy of the complaint must be sent by registered mail to the department.

(20) A return showing service of the notice on the department shall be filed with the court but shall not be part of the record except as necessary to give notice to the defendant of the lien imposed by subsection (10) of this section.

(21) Any compromise or settlement of the third party cause of action by the victim or beneficiary which results in less than the entitlement under this title is void unless made with the written approval of the department. For the purposes of this chapter, "entitlement" means benefits and compensation paid and estimated by the department to be paid in the future.

(22) If a compromise or settlement is void because of subsection (21) of this section, the department may petition the court in which the action was filed for an order assigning the cause of action to the department. If an action has not been filed, the department may proceed as provided in chapter 7.24 RCW.

(23) The fact that the victim or beneficiary is entitled to compensation under this title shall not be pleaded or admissible in evidence in any third-party action under this chapter. Any challenge of the right to bring such action shall be made by supplemental pleadings only and shall be decided by the court as a matter of law.

(24) Actions against third persons that are assigned by the claimant to the department, voluntarily or by operation of law in accordance with this chapter, may be prosecuted by special assistant attorneys general.

(25) The attorney general shall select special assistant attorneys general from a list compiled by the department and the Washington state bar association. The attorney general, in conjunction with the department and the Washington state bar association, shall adopt rules and regulations outlining the criteria and the procedure by which private attorneys may have their names placed on the list of attorneys available for appointment as special assistant attorneys general to litigate third-party actions under subsection (24) of this section.

(26) The 1980 amendments to this section apply only to injuries which occur on or after April 1, 1980.

VIII. MISCELLANEOUS

NEW SECTION. Sec. 801. RCW 7.68.100 (Physicians' reporting) and 1973 1st ex.s. c 122 s 10 are each repealed.

NEW SECTION. Sec. 802. This act applies retroactively for claims of victims of criminal acts that occurred on or after July 1, 1981, in which a closing order has not been issued or become final and binding as of July 1, 2011, except that victims receiving time loss or loss of support on or before July 1, 2011, may continue to receive time loss at the rate established prior to July 1, 2011. Aggravation applications filed by crime victims who had claims prior to July 1, 2011, will be adjudicated under the laws in effect on or after the effective date of this section. This act does not affect the retroactive application of chapter 122, Laws of 2010.

NEW SECTION. Sec. 803. Sections 201 through 205, 302 through 307, 403 through 407, 504 through 508, 601, and 702 of this act are each added to chapter 7.68 RCW.

NEW SECTION. Sec. 804. Sections 401 and 502 of this act expire July 1, 2015.

NEW SECTION. Sec. 805. Sections 402 and 503 of this act take effect July 1, 2015.

NEW SECTION. Sec. 806. Except for sections 402 and 503 of this act, 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 July 1, 2011."

Correct the title.

Signed by Representatives Hurst, Chair; Ladenburg, Vice Chair; Klippert, Assistant Ranking Minority Member; Appleton; Goodman; Hope; Kirby; Moscoso and Ross.

MINORITY recommendation: Do not pass. Signed by Representatives Pearson, Ranking Minority Member and Armstrong.

Referred to Committee on Ways & Means.

March 21, 2011
SSB 5722 Prime Sponsor, Committee on Human Services & Corrections: Concerning the use of moneys collected from the local option sales tax to support chemical dependency or mental health treatment programs and therapeutic courts. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.460 and 2010 c 127 s 2 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over thirty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax. The rate of tax equals

one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except ~~(a portion of moneys collected under this section may be used to supplant existing funding for these purposes in any county or city as follows: Up to fifty percent may be used to supplant existing funding in calendar year 2010; up to forty percent may be used to supplant existing funding in calendar year 2011; up to thirty percent may be used to supplant existing funding in calendar year 2012; up to twenty percent may be used to supplant existing funding in calendar year 2013; and up to ten percent may be used to supplant existing funding in calendar year 2014))~~ as follows:

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

(b) For a county with a population of less than twenty-five thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to eighty percent may be used to supplant existing funding in calendar years 2011-2012; up to sixty percent may be used to supplant existing funding in calendar year 2013; up to forty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016; and

(c) Notwithstanding (a) and (b) of this subsection, moneys collected under this section may be used to support the cost of the judicial officer and support staff of a therapeutic court.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section."

Correct the title.

Signed by Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Carlyle; Cody; Dickerson; Haigh; Haler; Hinkle; Hudgins; Hunt; Kagi; Kenney; Ormsby; Parker; Pettigrew; Ross; Seaquist; Springer; Sullivan and Wilcox.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Assistant Ranking Minority Member; Chandler and Schmick.

Passed to Committee on Rules for second reading.

March 22, 2011

ESSB 5748 Prime Sponsor, Committee on Agriculture & Rural Economic Development: Regarding cottage food operations. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

(2) "Cottage food products" means nonpotentially hazardous baked goods; jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. Sec. 150 as it existed on the effective date of this section; and other nonpotentially hazardous foods identified by the state board in rule.

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

(4) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

(5) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one stove or oven, which may be a double oven, designed for residential use.

(6) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

(7) "State board" means the state board of health.

(8) "Washington state food service code" means food safety rules adopted by the state board of health under the authority of chapter 43.20 RCW.

NEW SECTION. Sec. 2. (1)(a) A cottage food operation licensed by the department consistent with section 3 of this act is exempt from:

(i) Any prohibitions against the use of a home kitchen under provisions of rules adopted by the department or contained in the Washington state food service code; and

(ii) Other provisions of the Washington state food service code related to requirements associated with the engineering or physical specifications of a kitchen.

(b) Cottage food operations are not exempt from provisions under the Washington state food service code relating to basic hygiene, sanitary procedures, food handling, and the activities of the actual people operating in the home kitchen. This includes requirements about the proximity of animals and the storage of toxic and dangerous substances.

(2) A cottage food operation licensed by the department under section 3 of this act is not subject to:

(a) Facility permitting by local health jurisdictions under the Washington state food service code; or

(b) Inspections by a local health jurisdiction:

(i) An initial preinspection or renewal inspection as required under section 3 of this act; and

(ii) Inspections in response to a foodborne outbreak or other public health emergency.

(3) A cottage food operation must package and properly label for sale to the consumer any food it produces, and the food may not be repackaged or used as an ingredient in other foods by a food processing plant or food service establishment.

(4) A cottage food operation must place on the label of any food it produces or packages, at a minimum, the following information:

(a) The name and address of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight;

(d) The net weight or net volume of the cottage food product;

(e) Allergen labeling as specified by federal labeling requirements;

(f) If any nutritional claim is made, appropriate labeling as specified by federal labeling requirements;

(g) The following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been subject to standard inspection criteria."

(5) Cottage food products may only be sold directly to the consumer and may not be sold by internet, mail order, or for retail sale outside the state.

(6) Cottage food products must be stored only in the primary domestic residence.

NEW SECTION. Sec. 3. (1) All cottage food operations must be licensed annually by the department on forms developed by the department. All annual registrations must be accompanied by a thirty dollar registration fee which must be deposited into the public health supplemental account created in RCW 43.70.327.

(2) In addition to the provision of any information required by the department on forms developed under subsection (1) of this section and the payment of an annual registration fee, an applicant for a license or a license renewal as a cottage food operation must also provide the following:

(a) Evidence that all individuals to be involved in the preparation of cottage foods at the cottage food operation have secured a food and beverage service worker's permit under chapter 69.06 RCW; and

(b) A signed letter on appropriate letterhead, dated during the current year, from the health department of the county in which the cottage food operation is to be located as to the fulfillment of the provisions of the Washington state food service code applicable to cottage food operations as provided in section 2 of this act and consistent with the applicable definitions provided in section 1 of this act. The local health department generating the letter may charge a reasonable fee for any necessary inspections and the generation of the letter. It is the sole authority of the inspecting local health department to resolve, for any given inspection, any ambiguity as to the inspection authority of the local health department.

NEW SECTION. Sec. 4. (1) The gross sales of cottage food products may not exceed twelve thousand dollars annually. The determination of the twelve thousand dollar annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(2) If the department determines that the gross sales of a cottage food operation exceeds twelve thousand dollars in one year, then the license issued under section 3 of this act must be suspended. Upon suspension, the licensee is not entitled to a full or partial refund of the registration fee paid under section 3 of this act.

(3) The department may request in writing documentation to verify the annual gross sales figure.

NEW SECTION. Sec. 5. A violation of any of the requirements of this section shall be considered a violation of the Washington state food service code.

NEW SECTION. Sec. 6. Nothing in this chapter affects the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government.

Sec. 7. RCW 43.20.050 and 2009 c 495 s 1 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to RCW 43.70.050;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1st of each even-numbered year for adoption by the governor. The governor, no later than March 1st of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules for group A public water systems, as defined in RCW 70.119A.020, necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants;

(b) Adopt rules as necessary for group B public water systems, as defined in RCW 70.119A.020. The rules shall, at a minimum, establish requirements regarding the initial design and construction of a public water system. The state board of health rules may waive some or all requirements for group B public water systems with fewer than five connections;

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(d) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(e) Adopt rules for the imposition and use of isolation and quarantine;

(f) Consistent with chapter 69.--- RCW (the new chapter created in section 9 of this act), adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(g) Adopt rules for accessing existing databases for the purposes of performing health related research.

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

(4) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

Sec. 8. RCW 43.70.327 and 2001 c 80 s 3 are each amended to read as follows:

(1) The public health supplemental account is created in the state treasury. All receipts from cottage food operations registration fees collected under section 3 of this act and any gifts, bequests, devises, or funds, whose use is determined to further the purpose of maintaining and improving the health of Washington residents through the public health system, must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for maintaining and improving the health of Washington residents through the public health system. Except as deemed necessary by the secretary for the implementation of chapter 69.--- RCW (the new chapter created in section 9 of this act), expenditures from the account shall not be used to pay for or add permanent full-time equivalent staff positions.

(2) The department shall file an annual statement of the financial condition, transactions, and affairs of any program funded under this section in a form and manner prescribed by the office of financial management. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate.

NEW SECTION. Sec. 9. Sections 1 through 6 of this act constitute a new chapter in Title 69 RCW."

Correct the title.

Signed by Representatives Blake, Chair; Stanford, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Dunshee; Hinkle; Kretz; Lytton; Orcutt; Pettigrew; Rolfe and Van De Wege.

Referred to Committee on Health & Human Services Appropriations & Oversight.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated with the exception of HOUSE BILL NO. 1175 which was placed on the second reading calendar.

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

There being no objection, the House adjourned until 9:00 a.m., March 25, 2011, the 75th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

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