

THIRTY FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, February 13, 2010

The Senate was called to order at 9:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Brandland, Carrell, Fairley, Fraser, Haugen, Kline, McCaslin, McDermott and Oemig.

The Sergeant at Arms Color Guard consisting of Senate Interns, Ann Larson and Eli Bailey, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 6856 by Senators Marr, Delvin, Jacobsen and Zarelli

AN ACT Relating to maintaining hospital privileges; and reenacting and amending RCW 48.44.020.

Referred to Committee on Health & Long-Term Care.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1080 by Representatives Simpson and Williams

AN ACT Relating to allowing impact fees to be used for all fire protection facilities; and amending RCW 82.02.090.

Referred to Committee on Government Operations & Elections.

SHB 2409 by House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Angel, Uptegrove and Moeller)

AN ACT Relating to the sale of water-sewer district real property; and amending RCW 57.08.016.

Referred to Committee on Government Operations & Elections.

HB 2460 by Representatives Smith, Nelson, Liias, Van De Wege, Blake, Bailey, Uptegrove, Kenney and Moeller

AN ACT Relating to organic products; amending RCW 15.86.010, 15.86.020, 15.86.030, 15.86.060, 15.86.065, 15.86.070, and 15.86.090; and adding new sections to chapter 15.86 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 2486 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Klippert, Rodne, Green, Kessler and Kelley)

AN ACT Relating to costs for the collection of DNA samples; and amending RCW 43.43.7541.

Referred to Committee on Human Services & Corrections.

ESHB 2499 by House Committee on Commerce & Labor (originally sponsored by Representatives Bailey, Chandler, Roach, Schmick and Kretz)

AN ACT Relating to the regulation of black powder; and amending RCW 70.74.340.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2517 by House Committee on Local Government & Housing (originally sponsored by Representatives Dammeier and Haigh)

AN ACT Relating to the exemption of housing authorities from laws governing the construction, alteration, repair, or improvement of property by other public bodies; and amending RCW 35.82.200.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 2528 by Representatives Appleton and Eddy

AN ACT Relating to retroactively applying certain intermediate license law amendments made during the 2009 legislative session; and creating a new section.

Referred to Committee on Transportation.

SHB 2534 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hurst, Pearson, O'Brien, Chase, Kelley, Conway, Van De Wege, Sells, Ericks, Morrell, Kirby, Campbell, Haigh and Smith)

AN ACT Relating to establishing a program to verify the address of registered sex offenders and kidnapping offenders; amending RCW 9A.44.130 and 9A.44.135; and adding a new section to chapter 36.28A RCW.

Referred to Committee on Human Services & Corrections.

SHB 2546 by House Committee on Commerce & Labor (originally sponsored by Representatives Van De Wege, Conway, Morrell, Angel, Dunshee and Santos)

AN ACT Relating to classroom training for electrical trainees; amending RCW 19.28.161; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 2564 by House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Nelson, Chase and Kirby)

AN ACT Relating to escrow agents; amending RCW 18.44.011, 18.44.021, 18.44.031, 18.44.091, 18.44.121, 18.44.201, 18.44.301, 18.44.195, and 18.44.430; and adding new sections to chapter 18.44 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 2589 by House Committee on Commerce & Labor (originally sponsored by Representative Green)

AN ACT Relating to on-site wastewater treatment systems designer licensing; amending RCW 18.210.010, 18.210.020, 18.210.030, 18.210.040, 18.210.050, 18.210.080, 18.210.100, 18.210.120, 18.210.140, 18.210.160, 18.210.170, 18.210.180, and 18.210.190; and repealing RCW 18.210.090 and 18.210.210.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 2593 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Morris, Upthegrove, Williams, Liias, White and Nelson)

AN ACT Relating to creating tools to enhance the department of fish and wildlife's ability to manage shellfish resources; amending RCW 77.70.500, 77.15.520, 77.15.380, 63.21.080, 77.12.865, 77.12.870, 77.15.750, 77.55.041, and 77.32.430; adding new sections to chapter 77.15 RCW; prescribing penalties; and providing an expiration date.

Referred to Committee on Natural Resources, Ocean & Recreation.

SHB 2596 by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Williams, Chase, Upthegrove and Simpson)

AN ACT Relating to defining child advocacy centers for the multidisciplinary investigation of child abuse and implementation of county protocols; and amending RCW 26.44.020, 26.44.180, and 26.44.185.

Referred to Committee on Human Services & Corrections.

SHB 2620 by House Committee on Finance (originally sponsored by Representatives Hunter and Moeller)

AN ACT Relating to excise taxation of certain products and services provided or furnished electronically; amending RCW 82.04.190, 82.04.192, 82.04.257, 82.04.2907, 82.04.297, 82.32.080, 35.102.130, 82.08.02082, 82.08.02087, 82.12.02082, 82.12.02087, 82.32.532, and 82.32.533; reenacting and amending RCW 82.04.050 and 82.08.195; creating new sections; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2629 by Representatives Kelley, Seaquist, Green, Kenney and Morrell

AN ACT Relating to making corrections to update the law regarding adoption petitions; and amending RCW 26.33.040.

Referred to Committee on Human Services & Corrections.

HB 2638 by Representatives McCoy, Quall, Eddy, Liias, Moeller, Dickerson, Wallace and Sells

AN ACT Relating to instructional materials provided in a specialized format version; amending RCW 28B.10.916; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

HB 2681 by Representatives Goodman, Rodne and Kelley

AN ACT Relating to allowing compensation for part-time judges' judicial services; and amending RCW 3.34.140.

Referred to Committee on Judiciary.

SHB 2706 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Bailey, Driscoll, Johnson, Morrell, Hinkle, Green and Kenney)

AN ACT Relating to exemption from immunization; and amending RCW 28A.210.090.

Referred to Committee on Health & Long-Term Care.

HB 2720 by Representatives Armstrong, Morrell, McCune, Miloscia, Finn, Appleton, Hunt, Alexander, O'Brien, Kelley, Conway and Campbell

AN ACT Relating to the Washington soldiers' home; and amending RCW 72.36.010.

Referred to Committee on Government Operations & Elections.

HB 2748 by Representatives Simpson, Jacks and Chase

AN ACT Relating to dues for an association established under RCW 53.06.030; and amending RCW 53.06.040.

Referred to Committee on Government Operations & Elections.

SHB 2768 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Ross, O'Brien, Hurst, Ericks, Wallace, Kelley, Upthegrove and Simpson)

AN ACT Relating to background investigations for peace officers and reserve officers; and amending RCW 43.101.080, 43.101.095, and 43.101.105.

Referred to Committee on Judiciary.

SHB 2801 by House Committee on Education (originally sponsored by Representatives Liias, Johnson, Pedersen, Hunt,

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Orwall, Maxwell, Quall, Moeller, Chase, Williams, Nelson and Simpson)

AN ACT Relating to wound care management in occupational therapy; amending RCW 18.59.020 and 18.59.160; and adding a new section to chapter 18.59 RCW.

AN ACT Relating to antiharassment strategies in public schools; amending RCW 28A.300.285; adding a new section to chapter 43.06B RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

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

MOTION

SHB 2804 by House Committee on Commerce & Labor (originally sponsored by Representatives Green, Hudgins, Goodman, Conway, Chandler, Crouse, Condotta, Moeller, Miloscia, Darneille, Hunt, Kagi and McCune)

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

MOTION

AN ACT Relating to beer and caffeinated or stimulant-enhanced malt beverages; reenacting and amending RCW 66.04.010; and adding a new section to chapter 66.28 RCW.

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

HB 2858 by Representatives Appleton, Anderson, Sells, White and Wallace

Senator Murray moved that Gubernatorial Appointment No. 9192, Benjamin Golden, as a member of the Board of Regents, University of Washington, be confirmed.

Senator Murray spoke in favor of the motion.

AN ACT Relating to purchasing authority of institutions of higher education with group purchasing organizations; and amending RCW 28B.10.029.

MOTION

Referred to Committee on Higher Education & Workforce Development.

On motion of Senator Marr, Senators Fairley, Gordon, Haugen, Kline, McAuliffe, McDermott and Prentice were excused.

MOTION

ESHB 2875 by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericksen, Cody, Condotta, Hinkle, Herrera, Driscoll, Parker, Bailey, Green, Morrell, Kelley, Wallace, Kessler and Moeller)

AN ACT Relating to health savings accounts; amending RCW 41.05.065; and creating a new section.

Referred to Committee on Health & Long-Term Care.

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

APPOINTMENT OF BENJAMIN GOLDEN

HB 2918 by Representatives Eddy, Clibborn, Hunter and Maxwell

AN ACT Relating to removing state route number 908 from the state highway system; and repealing RCW 47.17.855.

Referred to Committee on Transportation.

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9192, Benjamin Golden as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9192, Benjamin Golden as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 2; Excused, 7.

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

Absent: Senators Fraser and Oemig

Excused: Senators Brandland, Carrell, Fairley, Haugen, Kline, McCaslin and McDermott

Gubernatorial Appointment No. 9192, Benjamin Golden, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

HB 2973 by Representatives Orcutt, Wallace, Herrera, Probst, McCune, Klippert, Kelley, Hunter, Kretz, Campbell and Johnson

AN ACT Relating to resident student classification for certain members of the military and their spouses and dependents; and amending RCW 28B.15.012.

Referred to Committee on Higher Education & Workforce Development.

ESHB 3072 by House Committee on Health Care & Wellness (originally sponsored by Representatives Morrell, Driscoll, Crouse, Wallace and Parker)

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9255, Jeff Vincent, as a member of the State Board of Education, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Fraser and Oemig were excused.

APPOINTMENT OF JEFF VINCENT

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9255, Jeff Vincent as a member of the State Board of Education.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9255, Jeff Vincent as a member of the State Board of Education and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

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

Excused: Senators Brandland, Carrell, Fairley, Fraser, Haugen, Kline, McCaslin, McDermott and Oemig

Gubernatorial Appointment No. 9255, Jeff Vincent, having received the constitutional majority was declared confirmed as a member of the State Board of Education.

MOTION

At 9:25 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:31 a.m. by the President Pro Tempore.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kline moved that Gubernatorial Appointment No. 9198, Joanne Harrell, as a member of the Board of Regents, University of Washington, be confirmed.

Senator Kline spoke in favor of the motion.

APPOINTMENT OF JOANNE HARRELL

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9198, Joanne Harrell as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9198, Joanne Harrell as a member of the Board of Regents, University of Washington and

the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Fairley, Haugen and McCaslin
Gubernatorial Appointment No. 9198, Joanne Harrell, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

SECOND READING

SENATE BILL NO. 6610, by Senators Hargrove and McAuliffe

Concerning the assessment and treatment of certain persons with mental illnesses. Revised for 1st Substitute: Improving procedures relating to the commitment of persons found not guilty by reason of insanity.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 6610 was substituted for Senate Bill No. 6610 and the substitute bill was placed on the second reading and read the second time.

MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Hargrove moved to immediately reconsider the vote by which Substitute Senate Bill No. 6610 was substituted.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hargrove to immediately reconsider the vote by which Substitute Senate Bill No. 6610 was substituted..

The motion Hargrove carried by voice vote.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 6610 was not substituted for Senate Bill No. 6610 and the substitute bill was not adopted.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 10.77 RCW to read as follows:

(1) The secretary shall establish an independent public safety review panel for the purpose of advising the secretary and the courts with respect to persons who have been found not guilty by reason of insanity. The panel shall provide advice regarding all recommendations: (a) For a change in commitment status; (b) to allow furloughs or temporary leaves accompanied by staff; or (c) to permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

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(2) The members of the public safety review panel shall be appointed by the governor for a renewable term of three years and shall include the following:

- (a) A psychiatrist;
- (b) A licensed clinical psychologist;
- (c) A representative of the department of corrections;
- (d) A prosecutor or a representative of a prosecutor's association;
- (e) A representative of law enforcement or a law enforcement association;
- (f) A consumer and family advocate representative; and
- (g) A public defender.

(3) Thirty days prior to issuing a recommendation for conditional release under RCW 10.77.150 or forty-five days prior to issuing a recommendation for release under RCW 10.77.200, the secretary shall submit its recommendation with the committed person's application and the department's risk assessment to the public safety review panel. The public safety review panel shall complete an independent assessment of the public safety risk entailed by the secretary's proposed conditional release recommendation or release recommendation and provide this assessment in writing to the secretary. The public safety review panel may, within funds appropriated for this purpose, request additional evaluations of the committed person. The public safety review panel may indicate whether it is in agreement with the secretary's recommendation, or whether it would issue a different recommendation. The secretary shall provide the panel's assessment when it is received along with any supporting documentation, including all previous reports of evaluations of the committed person in the person's hospital record, to the court, prosecutor in the county that ordered the person's commitment, and counsel for the committed person.

(4) The secretary shall notify the public safety review panel at appropriate intervals concerning any changes in the commitment or custody status of persons found not guilty by reason of insanity. The panel shall have access, upon request, to a committed person's complete hospital record.

(5) The department shall provide administrative and financial support to the public safety review panel. The department, in consultation with the public safety review panel, may adopt rules to implement this section.

(6) By December 1, 2014, the public safety review panel shall report to the appropriate legislative committees the following:

- (a) Whether the public safety review panel has observed a change in statewide consistency of evaluations and decisions concerning changes in the commitment status of persons found not guilty by reason of insanity;
- (b) Whether the public safety review panel should be given the authority to make release decisions and monitor release conditions;
- (c) Any other issues the public safety review panel deems relevant.

NEW SECTION. Sec. 2. A new section is added to chapter 10.77 RCW to read as follows:

If the secretary determines that a person committed to the custody of the secretary for treatment as criminally insane presents an unreasonable safety risk which, based on behavior and clinical history, is not manageable in a state hospital setting, the secretary may place the person in any secure facility operated by the secretary or the secretary of the department of corrections, provided that appropriate mental health treatment is provided to the person and the person is afforded his or her rights under RCW 10.77.140, 10.77.150, and 10.77.200. The secretary of the department of social and health services shall retain legal custody of any person placed under this section.

Sec. 3. RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

(1) The secretary shall ~~((forthwith))~~ provide adequate care and individualized treatment to persons found criminally insane at one or several of the state institutions or facilities under ~~((his or her))~~ the direction and control ~~((wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to the secretary's custody, but such provision shall be made for their control, care, and treatment as is proper in view of their condition))~~ of the secretary. In order that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed ~~((to him or her))~~ as criminally insane, ~~((and in order for the secretary to place such individuals in a proper facility,))~~ all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in ~~((such a manner as))~~ order to provide a proper evaluation and diagnosis of such individual. The examinations of all ~~((developmentally disabled))~~ persons with developmental disabilities committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be released from the control of the secretary ~~((save upon the))~~ except by order of a court of competent jurisdiction made after a hearing and judgment of release.

(2) Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send ~~((him or her))~~ the person in the custody of one or more department employees to the county ~~((where))~~ in which the hearing is to be held at the time the case is called for trial. During the time the person is absent from the facility, ~~((he or she shall))~~ the person may be confined in a facility designated by and arranged for by the department, ~~((and))~~ but shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall ~~((forthwith))~~ return the person to such institution or facility designated by the secretary. If the state appeals an order of release, such appeal shall operate as a stay, and the person shall remain in custody ~~((shall so remain))~~ and be ~~((forthwith))~~ returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

Sec. 4. RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In an instance in which a person examined pursuant to RCW 10.77.140 has not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The attorney general shall represent the secretary in this proceeding. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational

purposes.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment.

~~((3))~~ (4) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment or upon a change in mental health that renders the patient a potential risk to the public report ~~((the failure))~~ to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer.

~~((4))~~ (5) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

Sec. 5. RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges

filed and any significant change in the person's mental condition or other circumstances.

Sec. 6. RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody ~~((until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified))~~. The court shall be notified of the apprehension before the close of the next judicial day ~~((of the apprehension))~~. The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

Sec. 7. RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In an instance in which a person has not made an application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. The attorney general shall represent the secretary in this proceeding.

(3) The petition shall be served upon the court and the

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prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner (~~is developmentally disabled~~) has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. The court may continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(6) Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

Sec. 8. RCW 10.77.220 and 1982 c 112 s 3 are each amended to read as follows:

No person confined pursuant to this chapter shall be incarcerated in a state correctional institution or facility(~~PROVIDED, That nothing herein shall prohibit~~), except as provided in section 2 of this act. This section does not apply to confinement in a mental health facility located wholly within a correctional institution. Confinement in a county jail or other local facility while awaiting either placement in a treatment program or a court hearing pursuant to this chapter is permitted for no more than seven days.

NEW SECTION. Sec. 9. (1) The institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

(a) An assessment tool or combination of tools to be used by individuals performing court-ordered competency assessments and level of risk assessments of defendants pursuant to chapter 10.77 RCW; and

(b) An assessment tool or combination of tools to be used by individuals developing recommendations to courts as to the appropriateness of conditional release from inpatient treatment of criminally insane patients pursuant to chapter 10.77 RCW.

(2) This section expires June 30, 2011."

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Carrell and Regala to Senate Bill No. 6610.

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

MOTION

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

On page 1, line 2 of the title, after "Relating to" strike the remainder of the title and insert "improving procedures relating to the commitment of persons found not guilty by reason of insanity; amending RCW 10.77.120, 10.77.150, 10.77.160, 10.77.190, 10.77.200, and 10.77.220; adding new sections to chapter 10.77 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 6610 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6610.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6610 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Fairley, Haugen and McCaslin
ENGROSSED SENATE BILL NO. 6610, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6593, by Senators Gordon, Kauffman, Prentice, Oemig, Tom, Kline and Parlette

Transferring the administration of the infant and toddler early intervention program from the department of social and health services to the department of early learning.

The measure was read the second time.

MOTION

On motion of Senator Gordon, the rules were suspended, Senate Bill No. 6593 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Gordon spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6593.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6593 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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

Voting nay: Senator McDermott

Excused: Senators Brandland, Fairley, Haugen and McCaslin

SENATE BILL NO. 6593, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Murray: "Thank you Madam President. For those who might be watching and wondering what is going on on the Senate floor. This is Senator Gordon's first bill and with new members we have a little fun with them. So, congratulations Senator."

MOTION

At 12:04 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 pm.

AFTERNOON SESSION

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

MOTION

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

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

SECOND ENGROSSED HOUSE BILL 1547,
ENGROSSED SUBSTITUTE HOUSE BILL 2427,
SECOND SUBSTITUTE HOUSE BILL 2436,
HOUSE BILL 2694,
ENGROSSED SUBSTITUTE HOUSE BILL 2716,
ENGROSSED SUBSTITUTE HOUSE BILL 2777,
SECOND SUBSTITUTE HOUSE BILL 2782,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 2402,
SUBSTITUTE HOUSE BILL 2439,
SUBSTITUTE HOUSE BILL 2525,

SECOND SUBSTITUTE HOUSE BILL 2551,
HOUSE BILL 2595,
HOUSE BILL 2605,
HOUSE BILL 2608,
SECOND SUBSTITUTE HOUSE BILL 2623,
SUBSTITUTE HOUSE BILL 2624,
SECOND SUBSTITUTE HOUSE BILL 2742,
ENGROSSED SUBSTITUTE HOUSE BILL 2842,
SUBSTITUTE HOUSE BILL 2852,
SUBSTITUTE HOUSE BILL 2930,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

SUBSTITUTE HOUSE BILL 2683,
SUBSTITUTE HOUSE BILL 2721,
SUBSTITUTE HOUSE BILL 2745,
SUBSTITUTE HOUSE BILL 2758,
SUBSTITUTE HOUSE BILL 2828,
SUBSTITUTE HOUSE BILL 2863,
SUBSTITUTE HOUSE BILL 2865,
HOUSE BILL 2937,
SUBSTITUTE HOUSE BILL 2939,
HOUSE BILL 3068,
HOUSE JOINT MEMORIAL 4025,
HOUSE JOINT MEMORIAL 4027,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 12, 2010

MR. PRESIDENT

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 2414,
ENGROSSED SUBSTITUTE HOUSE BILL 2560,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 6804, by Senator Kohl-Welles

Allowing the department of social and health services to adopt rules establishing standards for the review and certification of treatment facilities under the problem and pathological gambling treatment program.

The measure was read the second time.

MOTION

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On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 6804 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Marr, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6804.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6804 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

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

Absent: Senator Ranker

Excused: Senators Brandland, Brown, Haugen and McCaslin

SENATE BILL NO. 6804, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senator Ranker was excused.

SECOND READING

SENATE BILL NO. 6476, by Senators Stevens, Hargrove, Fraser, Swecker, Delvin, Brandland, Holmquist, Becker, Parlette, Carrell, Hewitt, Schoesler, King, Roach and Kohl-Welles

Revising provisions relating to sex crimes involving minors.

MOTION

On motion of Senator Stevens, Substitute Senate Bill No. 6476 was substituted for Senate Bill No. 6476 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Stevens moved that the following amendment by Senators Stevens and Hargrove be adopted. On page 31, after line 4, insert the following:

"**Sec. 16.** RCW 9.68A.110 and 2007 c 368 s 3 are each 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. This chapter does not apply to lawful conduct between spouses.

(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(~~(= PROVIDED, That))~~. 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(~~(= PROVIDED, That))~~. 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, or 9.68A.070, it shall be an affirmative defense that the defendant was 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.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Stevens spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Stevens and Hargrove on page 31, after line 4 to Substitute Senate Bill No. 6476.

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

MOTION

On motion of Senator Stevens, the rules were suspended, Engrossed Substitute Senate Bill No. 6476 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6476.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6476 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Brown, Haugen and McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6476, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6520, by Senators Hatfield, Parlette, Hobbs, Ranker, Pridemore and Shin

Extending time to complete recommendations under RCW 36.70A.5601 conducted by the William D. Ruckelshaus Center.

MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 6520 was substituted for Senate Bill No. 6520 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 6520 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6520.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6520 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Brown, Haugen and McCaslin
SUBSTITUTE SENATE BILL NO. 6520, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6702, by Senators Kline, McAuliffe, Gordon, McDermott, Fraser, Shin and Kohl-Welles

Providing education programs for juveniles in adult jails.

MOTIONS

On motion of Senator Kline, Second Substitute Senate Bill No. 6702 was substituted for Senate Bill No. 6702 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Second Substitute Senate Bill No. 6702 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6702.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6702 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin and Tom

Voting nay: Senators Becker, Holmquist, Honeyford, Parlette, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Brandland, Haugen and McCaslin

SENATE BILL NO. 6702, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6561, by Senators Hargrove, McCaslin, Regala and Stevens

Restricting access to juvenile offender records.

MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 6561 was substituted for Senate Bill No. 6561 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens be adopted. On page 1, after line 4, insert the following:

"NEW SECTION. Sec. 1. It is the legislature's intent to eventually automatically restrict access to juvenile offender records at age eighteen provided the offender meets certain requirements. The legislature recognizes that because of information technology differences in the computer systems used by the various agencies that would be involved in automatically restricting access to juvenile offender records, this goal cannot be currently accomplished without a significant fiscal impact. Nevertheless, the legislature intends that the agencies involved begin to work together to achieve the goal of automatically restricting juvenile offender records within the near future."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 7, line 38, after "company," insert "This subsection does not apply to those records maintained or disseminated under chapter 36.28A RCW."

Correct the title.

Senator Hargrove spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 1, after line 4 to Second Substitute Senate Bill No. 6561.

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

PERSONAL PRIVILEGE

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6561 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Regala, Senator Oemig was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6561.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6561 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

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

Voting nay: Senators Benton, Carrell, Roach and Zarelli

Excused: Senators Brandland, Haugen, McCaslin and Oemig

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6561, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION TO LIMIT DEBATE

Senator Eide: "Madam President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through February 13, 2010."

The President Pro Tempore declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through February 13, 2010 by voice vote.

PERSONAL PRIVILEGE

Senator Hatfield: "Thank you Madam President. I think many of you are aware of the shooting of Washington State Patrol Trooper Scott Johnson early this morning. Some of you may have seen the press release. There's actually good news. I just wanted to share an email from Chief Batiste to Marty Brown in the Governor's Office. Very quickly, I think that will make us all feel better. The Chief said, 'I left Scott in good spirits at the hospital surrounded by his family and several of our troopers. It could have been very bad but fortunately for him and us the doc says he's going to be ok.'"

Senator Roach: "I hope I've asked for the right motion. I wanted to let the body know what a special, a very special man that Chief Batiste is because, wherever he was he went down to that hospital and on to Portland to follow his Trooper. A year and half ago very close member of my family was killed in a car accident, young man eighteen years old ran off the road and hit a tree. It was late at night. No drinking involved. He was the twice the student body president at Antioch High School. He was a wonderful, wonderful grandson. At that time, at the funeral Chief Batiste, because my son-in-law is a State Patrol Trooper, took the time to go out to Antioch High School and be there with the family. This is a man who cares about all of his troopers, all the family that the troopers become when they become members and I wanted to let you know what a special man that is, to be there for whatever emergency happens in a family of our troopers of the State of Washington."

SECOND READING

SENATE BILL NO. 6674, by Senators Kline, McCaslin and Hargrove

Regulating indemnification agreements involving motor carrier transportation contracts.

MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 6674 was substituted for Senate Bill No. 6674 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 6674 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6674.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6674 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6674, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6678, by Senators Hobbs, Kilmer, Marr, Berkeley, Tom and Shin

Concerning the creation of entities to address the long-range impact of opportunities and changes in the aerospace industry.

MOTIONS

On motion of Senator Hobbs, Second Substitute Senate Bill No. 6678 was substituted for Senate Bill No. 6678 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Second Substitute Senate Bill No. 6678 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Delvin was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6678.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6678 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6678, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6679, by Senators Kauffman, Kastama and Shin

Concerning the small business export finance assistance center.

MOTIONS

On motion of Senator Kastama, Second Substitute Senate Bill No. 6679 was substituted for Senate Bill No. 6679 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Second Substitute Senate Bill No. 6679 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6679.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6679 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6679, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6485, by Senators Marr, King, Kohl-Welles, Hewitt, Hatfield, Delvin, Hobbs and Rockefeller

Modifying craft distillery provisions.

MOTIONS

On motion of Senator Marr, Substitute Senate Bill No. 6485 was substituted for Senate Bill No. 6485 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Marr, the rules were suspended, Substitute Senate Bill No. 6485 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6485.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6485 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

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

Voting nay: Senators Hargrove, Kauffman and Morton

Excused: Senators Brandland, Haugen and McCaslin

SUBSTITUTE SENATE BILL NO. 6485, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6706, by Senators Murray, Delvin, Kastama, Shin, Marr, Kilmer and Kohl-Welles

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Concerning the commercialization of research at state universities.

MOTIONS

On motion of Senator Kastama, Substitute Senate Bill No. 6706 was substituted for Senate Bill No. 6706 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 6706 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

MOTION

On motion of Senator Eide, Senator Prentice was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6706.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6706 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brandland, Haugen, McCaslin and Prentice

SUBSTITUTE SENATE BILL NO. 6706, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6667, by Senators Kauffman and Kastama

Concerning business assistance programs.

MOTIONS

On motion of Senator Kauffman, Second Substitute Senate Bill No. 6667 was substituted for Senate Bill No. 6667 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kauffman, the rules were suspended, Second Substitute Senate Bill No. 6667 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kauffman spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6667.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6667 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Holmquist

Excused: Senators Brandland, Haugen and McCaslin

SECOND SUBSTITUTE SENATE BILL NO. 6667, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6450, by Senators Eide, Kauffman and Shin

Requiring the department of licensing to establish continuing education requirements for court reporters.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Bill No. 6450 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6450.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6450 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

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

Voting nay: Senators Hewitt, Holmquist, Honeyford and Stevens

Excused: Senators Brandland, Haugen and McCaslin

SENATE BILL NO. 6450, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6206, by Senators Haugen and Kilmer

Authorizing extensions of the due dates for filing tax incentive accountability reports and surveys with the department of revenue.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 6206 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6206.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6206 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin

SENATE BILL NO. 6206, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6414, by Senator Regala

Modifying sex offender registration provisions. Revised for 1st Substitute: Improving the administration and efficiency of sex and kidnapping offender registration.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 6414 was substituted for Senate Bill No. 6414 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 6414 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6414.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6414 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin
SUBSTITUTE SENATE BILL NO. 6414, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6504, by Senator Hargrove

Reducing crime victims' compensation benefits and eligibility. Revised for 2nd Substitute: Modifying provisions of the crime victims' compensation program.

MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 6504 was substituted for Senate Bill No. 6504 and the second substitute bill was placed on the second reading and read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 7.68.070 and 2009 c 38 s 1 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in 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 in case of death of the victim, are entitled to 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) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition thereto, 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:

(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.

(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 (~~--- PROVIDED ---~~), except that benefits for burial expenses shall not exceed ((the

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amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim: ~~PROVIDED FURTHER, That 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)) six thousand five hundred dollars per claim.~~

(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~~), except 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, 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(~~(= PROVIDED)~~), 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(~~(= 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(~~(= PROVIDED)~~), 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) ((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.

((15)) (14) 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)) (15) 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))~~ (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.

~~((18))~~ (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.

~~((19))~~ (18) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) 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 who has been convicted of a felony within five years preceding the criminal act for which they are applying which is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or who is convicted of such a felony after applying, is not eligible for benefits under this act.

Sec. 2. RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

(1) This section has no force or effect from the effective date of this section until July 1, 2013.

(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:

~~((1))~~ (a) Necessary for a previously accepted condition;

~~((2))~~ (b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

~~((3))~~ (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.

NEW SECTION. Sec. 3. A new section is added to chapter 7.68 RCW to read as follows:

The crime victims' compensation account is created in the custody of the state treasurer. Expenditures from the account may be used only for the crime victims' compensation program under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 4. RCW 9A.82.110 and 2009 c 479 s 11 are each amended to read as follows:

(1) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act.

(2)(a) The county legislative authority may establish an antiprofitteering revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiprofitteering revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofitteering revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county current expense fund.

Sec. 5. RCW 72.09.111 and 2009 c 479 s 60 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

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(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement;

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the ~~((state general fund))~~ crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

Sec. 6. RCW 72.09.480 and 2009 c 479 s 61 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal

action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the ((state general fund)) crime victims' compensation account provided in section 3 of this act;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; and

(e) Twenty percent to the department to contribute to the cost of incarceration.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

NEW SECTION. Sec. 7. Sections 1 and 2 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 April 1, 2010, for all claims of victims of criminal acts occurring after July 1, 1981.

NEW SECTION. Sec. 8. Sections 1 and 2 of this act expire July 1, 2013."

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

Senators Zarelli and Parlette spoke against adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others to Second Substitute Senate Bill No. 6504.

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

MOTION

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

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 7.68.070, 7.68.085, 9A.82.110, 72.09.111, and 72.09.480; adding a new section to chapter 7.68 RCW; providing an effective date; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute Senate Bill No. 6504 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6504.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6504 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hargrove, Hatfield, Jacobsen, Kastama, Keiser, King, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Shin, Stevens, Swecker and Tom

Voting nay: Senators Becker, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, Marr, Morton, Oemig, Parlette, Pflug, Schoesler, Sheldon and Zarelli

Excused: Senators Brandland, Haugen and McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6832, by Senator Hargrove

Concerning child welfare services.

MOTIONS

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On motion of Senator Hargrove, Substitute Senate Bill No. 6832 was substituted for Senate Bill No. 6832 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 6832 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6832.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6832 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin
 SUBSTITUTE SENATE BILL NO. 6832, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 3:27 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:53 p.m. by the President Pro Tempore.

SECOND READING

SENATE BILL NO. 6721, by Senators Schoesler, Hobbs and Honeyford

Concerning tax statute clarifications and technical corrections.

MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 6721 was substituted for Senate Bill No. 6721 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 6721 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6721.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6721 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brandland, Haugen and McCaslin
 SUBSTITUTE SENATE BILL NO. 6721, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6329, by Senators Kohl-Welles, King, Franklin, Hewitt, Keiser, Kline and Delvin

Creating a beer and wine tasting endorsement to the grocery store liquor license.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 6329 was substituted for Senate Bill No. 6329 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 6329 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, King and Honeyford spoke in favor of the passage of the bill.

Senators Hargrove, Parlette, Swecker and Roach spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6329.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6329 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hatfield, Hewitt, Hobbs, Honeyford, Jacobsen, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Pflug, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Tom and Zarelli

Voting nay: Senators Becker, Benton, Fraser, Gordon, Hargrove, Holmquist, Kastama, Kauffman, Marr, Oemig, Parlette, Prentice, Pridemore, Roach, Shin, Stevens and Swecker

Excused: Senators Brandland, Haugen and McCaslin
 SUBSTITUTE SENATE BILL NO. 6329, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL

On February 13, 2010, given the enormous volume of bills, amendments, and motions before the Senate, I inadvertently

voted "yes" on the final passage of Substitute Senate Bill 6329, which would allow samples of wine and beer to be given out at grocery stores. I have long been against making alcohol available in such situations where families and children are commonly found. I regret this mistake, and should have voted "no" against this measure.

SENATOR BOB MORTON, 7th LEGISLATIVE DISTRICT

SECOND READING

SENATE BILL NO. 6508, by Senators Fairley, Prentice, Pridmore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon and Keiser

Changing the class of persons entitled to recoveries under a wrongful death action or survival action.

MOTION

On motion of Senator Gordon, Substitute Senate Bill No. 6508 was substituted for Senate Bill No. 6508 and the substitute bill was placed on the second reading and read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Hargrove and without objection, the amendment by Senators Brandland and Hargrove on page 2, after line 21 and the amendment by Senators Haugen, Hargrove, Shin, Sheldon and Berkey on page 2, line 20 to Substitute Senate Bill No. 6508 were withdrawn

MOTION

Senator Gordon moved that the following striking amendment by Senator Gordon be adopted:

0) Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.20.020 and 2007 c 156 s 29 are each amended to read as follows:

(1) Every ~~((such))~~ action under RCW 4.20.010 shall be for the benefit of the ~~((wife, husband))~~ spouse, state registered domestic partner, ~~((child))~~ or children, including stepchildren, of the person whose death shall have been so caused. If there ~~((be))~~ is no ~~((wife, husband))~~ spouse, state registered domestic partner, or ~~((such))~~ child ~~((or children, such)),~~ the action may be maintained for the benefit of:

(a) The parents ~~((sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death))~~ of a deceased adult child if the parents are financially dependent upon the adult child for support or if the parents have had significant involvement in the adult child's life; or

(b) Sisters or brothers who are financially dependent upon the deceased person for support if there is no spouse, state registered domestic partner, child, or parent.

In every such action the jury may ~~((give such))~~ award economic and noneconomic damages as ~~((s))~~ under all circumstances of the case ~~((s))~~ may to them seem just.

(2) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the

relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

Sec. 2. RCW 4.20.046 and 2008 c 6 s 409 are each amended to read as follows:

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section ~~((: PROVIDED, HOWEVER, That))~~.

(2) In addition to recovering economic losses, the personal representative ~~((shall only be))~~ is entitled to recover on behalf of those beneficiaries identified under RCW 4.20.020 any noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by ~~((a))~~ the deceased ~~((on behalf of those beneficiaries enumerated in RCW 4.20.020, and))~~ in such amounts as determined by a jury to be just under all the circumstances of the case. Damages under this section are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

(3) The liability of property of spouses or domestic partners held by them as community property and subject to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses or either or both domestic partners; and a cause of action shall remain an asset as though both claiming spouses or both claiming domestic partners continued to live despite the death of either or both claiming spouses or both claiming domestic partners.

~~((2))~~ (4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

Sec. 3. RCW 4.20.060 and 2007 c 156 s 30 are each amended to read as follows:

(1) No action for a personal injury to any person occasioning death shall abate, nor shall such right of action ~~((determine))~~ terminate, by reason of ~~((such))~~ the death ~~((s))~~ if ~~((such))~~ the person has a surviving ~~((spouse, state registered domestic partner, or child living, including stepchildren, or leaving no surviving spouse, state registered domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator))~~ beneficiary in whose favor the action may be brought under subsection (2) of this section.

(2) An action under this section shall be brought by the personal representative of the deceased ~~((s))~~ in favor of ~~((such))~~ the surviving spouse or state registered domestic partner, ~~((or in favor of the surviving spouse or state registered domestic partner))~~ and ~~((such))~~ children ~~((s or if))~~. If there is no surviving spouse ~~((or))~~, state registered domestic partner, ~~((in favor of such child))~~ or children, ~~((or if no surviving spouse, state registered domestic partner, or such child or children, then))~~ the action shall be brought in favor of the decedent's:

(a) Parents ~~((sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death))~~ if the parents are financially dependent upon the decedent for support or if the parents have had significant involvement in the decedent's life; or

(b) Sisters or brothers who are financially dependent upon the deceased person for support if there is no spouse, state registered domestic partner, child, or parent.

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(3) In addition to recovering economic losses, the persons identified in subsection (2) of this section are entitled to recover any noneconomic damages personal to and suffered by the decedent including, but not limited to, damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a jury to be just under all the circumstances of the case.

(4) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

Sec. 4. RCW 4.24.010 and 1998 c 237 s 2 are each amended to read as follows:

(1) A ~~((mother or father, or both,))~~ parent who has regularly contributed to the support of his or her minor child, ~~((and the mother or father, or both, of a child on whom either, or both, are))~~ or a parent who is financially dependent on a minor child for support or who has had significant involvement in such child's life, may maintain or join ~~((as a party))~~ an action as plaintiff for the injury or death of the child.

(2) Each parent, separately from the other parent, is entitled to recover for his or her own loss regardless of marital status, even though this section creates only one cause of action ~~((, but if the parents of the child are not married, are separated, or not married to each other damages may be awarded to each plaintiff separately, as the trier of fact finds just and equitable)).~~

(3) If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: **PROVIDED,** That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

(4) In ~~((such))~~ an action under this section, in addition to damages for medical, hospital, medication expenses, and loss of services and support, damages may be recovered for the loss of love and companionship of the child and for injury to or destruction of the parent-child relationship in such amount as, under all the circumstances of the case, may be just.

(5) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

NEW SECTION. Sec. 5. This act applies to all causes of action filed on or after the effective date of this act.

NEW SECTION. Sec. 6. (1) On December 1, 2010, and every December 1st thereafter, the risk management division within the office of financial management shall report to the house appropriations committee, the house state government and tribal affairs committee, the senate ways and means committee, and the senate government operations and elections committee, or successor

committees, on the incidents covered by this act that involve state agencies.

(2) On December 1, 2010, and every December 1st thereafter, each local government risk pool or local government risk management division, or the equivalent in local governments, shall report to the legislative body of the local government on the incidents covered by this act that involve the local Government.

(3) This section expires December 2, 2015.

NEW SECTION. Sec. 7. 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."

On page 1, line 3 of the title, after "sections;" insert "adding a severability clause;"

MOTION

Senator Berkey moved that the following amendment by Senators Berkey and Shin to the striking amendment be adopted:

On page 2, line 9, "death" insert "of an adult child under the age of twenty-six"

On Page 2, line 8, after "or at" strike "or reasonably near"

On page 4, line 23, after "death", insert "of an adult child under the age of twenty-six"

On page 4, line 22, after "or at", strike "or reasonably near"

Remember the sections consecutively and correct any internal references accordingly.

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

MOTION

Senator Berkey moved that the following oral amendment to the amendment by Senators Berkey and Shin be adopted:

On line 9 of the amendment, after "or at", strike "insert" and insert "strike"

The President Pro Tempore declared the question before the Senate to be the oral amendment by Senators Berkey and Shin.

The oral amendment by Senator Berkey was adopted by a voice vote.

Senator Gordon spoke against adoption of the amendment to the striking amendment.

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Berkey and Shin on page 2, line 9 to the striking amendment to Substitute Senate Bill No. 6508.

The motion by Senator Berkey carried and the amendment to the striking amendment was adopted by a rising vote.

POINT OF ORDER

Senator Brown: "If there are three members excused why were there forty-seven votes? The counting must obviously have not been correct because there are only forty-six members on the floor of the senate. Madam President, I demand a roll call vote."

MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Hargrove moved to immediately reconsider the vote by which the amendment by

Senators Berkey and Shin on page 2, line 9, as amended, to the striking amendment to Substitute Senate Bill No. 6508 was adopted.

The President Pro Tempore declared the question before the Senate to be the motion by Senator Hargrove to immediately reconsider the vote by which the amendment by Senators Berkey and Shin on page 2, line 9, as amended, to the striking amendment to Substitute Senate Bill No. 6508 was adopted.

The motion by Senator Hargrove carried and the Senate immediately reconsidered the vote by which the amendment by Senators Berkey and Shin on page 2, line 9, as amended, was adopted.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Berkey and Shin on page 2, line 9, as amended, to the striking amendment to Substitute Senate Bill No. 6508 on reconsideration.

The motion by Senator Berkey failed and the amendment by Senators Berkey and Shin, as amended, to the striking amendment was not adopted by a rising vote on reconsideration.

MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove to the striking amendment be adopted:

On page 2, after line 9, insert the following:

"(4) In any action under subsection (1)(a) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

On page 4, after line 23, insert the following:

"(5) In any action under subsection (1)(a) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

On page 5, after line 32, insert the following:

"(6) In any action under subsection (1) of this section against the state or a political subdivision thereof that is based on a parent's significant involvement in an adult child's life, the liability of the state or political subdivision shall be several and not joint."

On page 6, beginning on line 1, insert the following:

"Sec. 5. RCW 4.22.030 and 1986 c 305 s 402 are each amended to read as follows:

Except as otherwise provided in RCW 4.22.070, 4.20.020, 4.20.060, and 4.24.010, if more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such person shall be joint and several."

Renumber the sections consecutively and correct any internal references accordingly.

Renumber the sections consecutively and correct any internal references accordingly.

Correct the title.

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

POINT OF INQUIRY

Senator Swecker: "Would Senator Hargrove yield to a question? Senator, I'm always nervous when we start granting exemptions for public entities that don't also accrue to private entities. So, my question is; if there were two private entities involved would they be subject to 'joint and several' or would it just be when there's a public entity involved?"

Senator Hargrove: "For this particular amendment no, it just deals with public entities. If you don't like the expansion for privates, you should vote against the bill and not against this amendment."

Senators Kline and Gordon spoke against adoption of the amendment to the striking amendment.

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

POINT OF INQUIRY

Senator Pflug: "Would Senator Kline yield to a question? Senator, from your remarks earlier it sounded to me like you were talking about two tiers so the previous speaker suggested that sometimes the municipalities are held liable and I thought from your remarks you were suggesting that were exempting the municipalities and the state here from something for which an individual citizen might be held liable. Is that correct? For example, if it is my driveway that has the water on it and the person slips out into the street, or maybe I should say my eighty year old mother's driveway and is hit by a car, is the owner of the driveway not exempted where the state would have been?"

Senator Kline: "The question is whether the party committed an act of negligence that makes it liable at all. Without referring to people in a way that makes them sympathetic nor on the other side, unsympathetic. Simply saying the party a wrong doer or not, contributing to the injury of another person, person who is innocent of all wrong doing. So, we have one person who's injured zero percent negligent, we have two other parties some percent negligent each that adds up to one hundred percent who injured the first person. In both cases we have a person who deserves one hundred percent return. Deserves to be made whole, that's all, not to make money but to simply to be compensated. In the first situation we have less than one hundred percent compensation and the second we have one hundred percent compensation. There's a difference, that difference makes no sense."

Senator Pflug: "I'm not entirely clear. Is there any difference between the private individual's liability or the public individual's liability in this situation?"

Senator Kline: "Yes, there is. The private person is several, is jointly liable, that is, is liable for the unpaid part of the other. The public entity is not. It is severally only. Its liable only for its share. Now, that may sound just but remember when your limiting the injured person who is innocent, it's not just."

Senator Plug: "So, to be clear, if the amendment passes what you consider an unjust situation in which a private citizen might be responsible for the injury but the municipality would not be if this amendment is passed. That's what creates the two tiers."

Senator Kline: "Responsible over its percentage share, that's the difference, yes."

Senator Pflug spoke against adoption of the amendment.

MOTION

Senator Hargrove demanded that the previous question be put.

The President Pro Tempore declared that at least two additional senators joined the demand and the demand was sustained.

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The President Pro Tempore declared the question before the Senate to be the motion by Senator Hargrove, "Shall the main question be now put?"

The motion by Senator Hargrove that the previous question be put carried by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Hargrove on page 2, after line 9 to the striking amendment to Substitute Senate Bill No. 6508.

MOTION

Senator Schoesler demanded a roll call.

The President Pro Tempore declared that one-sixth of the members supported the demand and the demand was sustained.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Hargrove to the striking amendment and the amendment was not adopted by the following vote: Yeas, 23; Nays, 23; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Carrell, Delvin, Fraser, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, Kastama, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Eide, Fairley, Franklin, Gordon, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Tom

Excused: Senators Brandland, Haugen and McCaslin

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator Gordon to Substitute Senate Bill No. 6508.

Senator Gordon spoke in favor of the striking amendment.

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

MOTION

Senator Gordon moved that the rules be suspended and Engrossed Substitute Senate Bill No. 6508 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

Senator Schoesler objected to the suspension of the rules to allow the bill to advance to third reading and final passage.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6508 was deferred and the bill held its place on the calendar.

MOTION

At 5:07 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Monday, February 15, 2010.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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