

CHAPTER 10

[Substitute Senate Bill No. 5034]

REVISED CODE OF WASHINGTON—RECONCILIATION OF DOUBLE
AMENDMENTS OR REPEALS

AN ACT Relating to the reconciliation of double amendments or repeals in the Revised Code of Washington; amending RCW 18.57.085; amending section 143, chapter 30, Laws of 1985 (uncodified); amending section 1, chapter 114, Laws of 1979 ex. sess. (uncodified); reenacting RCW 5.60.060, 11.98.029, 29.13.060, 43.03.010, and 48.24.060; reenacting and amending RCW 48.46.060; creating a new section; and repealing RCW 8.25.170 and 39.56.010.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 294, page 187, Laws of 1854 as last amended by section 1501, chapter 212, Laws of 1987 and by section 11, chapter 439, Laws of 1987 and RCW 5.60.060 are each reenacted to read as follows:

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 71.05 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 71.05 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 71.05.250, a physician or surgeon or osteopathic physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

NEW SECTION. Sec. 2. It is the intent of the legislature that RCW 11.98.029 be restored to full force and effect.

Sec. 3. Section 43, chapter 30, Laws of 1985 and RCW 11.98.029 are each reenacted to read as follows:

Any trustee may resign, without judicial proceedings, by a writing signed by the trustee and filed with the trust records, to be effective upon the trustee's discharge as provided in RCW 11.98.041.

Sec. 4. Section 143, chapter 30, Laws of 1985 (uncodified) is amended to read as follows:

The following acts or parts of acts are each repealed:

(1) Section 11.16.050, chapter 145, Laws of 1965, section 4, chapter 168, Laws of 1967 and RCW 11.16.050;

(2) ~~((Section 4, chapter 124, Laws of 1959 and RCW 11.98.029; (3)))~~ Section 8, chapter 88, Laws of 1967 ex. sess., section 33, chapter 292, Laws of 1971 ex. sess. and RCW 21.25.010;

~~((4)))~~ (3) Section 9, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.020;

~~((5)))~~ (4) Section 10, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.030;

~~((6)))~~ (5) Section 11, chapter 88, Laws of 1967 ex. sess., section 34, chapter 292, Laws of 1971 ex. sess. and RCW 21.25.040;

~~((7)))~~ (6) Section 12, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.050;

~~((8)))~~ (7) Section 13, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.060;

~~((9)))~~ (8) Section 14, chapter 88, Laws of 1967 ex. sess., section 35, chapter 292, Laws of 1971 ex. sess. and RCW 21.25.070;

~~((10)))~~ (9) Section 15, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.080;

~~((11)))~~ (10) Section 16, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.090;

~~((12)))~~ (11) Section 17, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.100;

~~((13))~~ (12) Section 18, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.110;

~~((14))~~ (13) Section 19, chapter 88, Laws of 1967 ex. sess. and RCW 21.25.900; and

~~((15))~~ (14) Section 30.24.060, chapter 33, Laws of 1955, section 1, chapter 209, Laws of 1967 and RCW 30.24.060.

Sec. 5. Section 3, chapter 227, Laws of 1971 ex. sess. as amended by section 14, chapter 117, Laws of 1979 and RCW 18.57.085 are each amended to read as follows:

The board may, in its discretion, waive ~~((the examination in basic sciences required under chapter 43.74 RCW, and))~~ the examination in clinical subjects required under RCW 18.57.080 as now or hereafter amended, of persons applying for a license to practice osteopathic medicine and surgery if, in the sole discretion of the board, the applicant has successfully passed an examination of equal or greater difficulty than the examination being waived.

Sec. 6. Section 1, chapter 114, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

The following acts or parts of acts are each repealed:

~~(1) ((Section 3, chapter 227, Laws of 1971 ex. sess. and RCW 18.57.085;~~

~~(2))~~ (2) Section 4, chapter 227, Laws of 1971 ex. sess. and RCW 18.71.075;

~~((3))~~ (2) Section 43.74.005, chapter 8, Laws of 1965 and RCW 43.74.005;

~~((4))~~ (3) Section 43.74.010, chapter 8, Laws of 1965, section 22, chapter 77, Laws of 1973 and RCW 43.74.010;

~~((5))~~ (4) Section 43.74.015, chapter 8, Laws of 1965, section 6, chapter 188, Laws of 1967, section 123, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 43.74.015;

~~((6))~~ (5) Section 43.74.020, chapter 8, Laws of 1965 and RCW 43.74.020;

~~((7))~~ (6) Section 43.74.025, chapter 8, Laws of 1965 and RCW 43.74.025;

~~((8))~~ (7) Section 43.74.035, chapter 8, Laws of 1965 and RCW 43.74.035;

~~((9))~~ (8) Section 2, chapter 227, Laws of 1971 ex. sess., section 23, chapter 77, Laws of 1973 and RCW 43.74.037;

~~((10))~~ (9) Section 43.74.040, chapter 8, Laws of 1965, section 24, chapter 77, Laws of 1973 and RCW 43.74.040;

~~((11))~~ (10) Section 43.74.050, chapter 8, Laws of 1965 and RCW 43.74.050;

~~((12))~~ (11) Section 43.74.060, chapter 8, Laws of 1965 and RCW 43.74.060;

~~((+3))~~ (12) Section 43.74.065, chapter 8, Laws of 1965 and RCW 43.74.065;

~~((+4))~~ (13) Section 43.74.075, chapter 8, Laws of 1965 and RCW 43.74.075;

~~((+5))~~ (14) Section 43.74.080, chapter 8, Laws of 1965, section 25, chapter 77, Laws of 1973 and RCW 43.74.080;

~~((+6))~~ (15) Section 1, chapter 227, Laws of 1971 ex. sess., section 26, chapter 77, Laws of 1973 and RCW 43.74.085;

~~((+7))~~ (16) Section 43.74.090, chapter 8, Laws of 1965 and RCW 43.74.090; and

~~((+8))~~ (17) Section 43.74.900, chapter 8, Laws of 1965 and RCW 43.74.900.

Sec. 7. Section 29.13.060, chapter 9, Laws of 1965 as amended by section 15, chapter 126, Laws of 1979 ex. sess. and by section 11, chapter 183, Laws of 1979 ex. sess. and RCW 29.13.060 are each reenacted to read as follows:

In class AA and class A counties, first class school districts containing a city of the first class shall hold their elections biennially as provided in RCW 29.13.020.

Except as provided in RCW 28A.57.313, the directors to be elected shall be elected for terms of six years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

Sec. 8. Section 43.03.010, chapter 8, Laws of 1965 as last amended by section 8, chapter 155, Laws of 1986 and by section 1, chapter 161, Laws of 1986 and RCW 43.03.010 are each reenacted to read as follows:

The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor; lieutenant governor: PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state; state treasurer; state auditor; attorney general; superintendent of public instruction; commissioner of public lands; and state insurance commissioner. Members of the legislature shall receive for their service per annum the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060.

Sec. 9. Section .24.06, chapter 79, Laws of 1947 as last amended by section 5, chapter 152, Laws of 1973 1st ex. sess. and by section 8, chapter

163, Laws of 1973 1st ex. sess. and RCW 48.24.060 are each reenacted to read as follows:

The lives of a group of public employees may be insured under a policy issued to the departmental head or to a trustee, or issued to an association of public employees formed for purposes other than obtaining insurance and having, when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five percent of the number of employees eligible for membership in such classes, which department head or trustee or association shall be deemed the policyholder, to insure such employees for the benefit of persons other than the policyholder or any of its officials, subject to the following requirements:

(1) The persons eligible for insurance under the policy shall be all of the employees of the department or members of the association, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the association, or both.

(2) The premium for the policy shall be paid by the policyholder, in whole or in part either from salary deductions authorized by, or charges collected from, the insured employees or members specifically for the insurance, or from the association's own funds, or from both. Any such deductions from salary may be paid by the employer to the association or directly to the insurer. No policy may be placed in force unless and until at least seventy-five percent of the then eligible employees or association members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have authorized their employer to make any required deductions from salary.

(3) The rate of charges to the insured employees or members specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than four reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members regardless of attained age.

(4) The policy must cover at least twenty-five persons at date of issue.

(5) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or members or by the association.

As used herein, "public employees" means employees of the United States government, or of any state, or of any political subdivision or instrumentality of any of them.

Sec. 10. Section 7, chapter 290, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 283, Laws of 1985 and by section 2, chapter 320, Laws of 1985 and RCW 48.46.060 are each reenacted and amended to read as follows:

(1) Any health maintenance organization may enter into agreements with or for the benefit of persons or groups of persons, which require prepayment for health care services by or for such persons in consideration of the health maintenance organization providing health care services to such persons. Such activity is not subject to the laws relating to insurance if the health care services are rendered directly by the health maintenance organization or by any provider which has a contract or other arrangement with the health maintenance organization to render health services to enrolled participants.

(2) All forms of health maintenance agreements issued by the organization to enrolled participants or other marketing documents purporting to describe the organization's comprehensive health care services shall comply with such minimum standards as the commissioner deems reasonable and necessary in order to carry out the purposes and provisions of this chapter, and which fully inform enrolled participants of the health care services to which they are entitled, including any limitations or exclusions thereof, and such other rights, responsibilities and duties required of the contracting health maintenance organization.

(3) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and ~~((34.04))~~ 34.05 RCW, the commissioner may disapprove an agreement form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions or conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the agreement;

(b) If it has any title, heading, or other indication which is misleading;

(c) If purchase of health care services thereunder is being solicited by deceptive advertising;

(d) If the benefits provided therein are unreasonable in relation to the amount charged for the agreement;

(e) If it contains unreasonable restrictions on the treatment of patients;

(f) If it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter ~~((34.04))~~ 34.05 RCW; or

(g) If any ~~((contract))~~ agreement for health care services with any state agency, division, subdivision, board or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(4) No health maintenance organization authorized under this chapter shall cancel or fail to renew the enrollment on any basis of an enrolled participant or refuse to transfer an enrolled participant from a group to an individual basis for reasons relating solely to age, sex, race, or health status: PROVIDED HOWEVER, That nothing contained herein shall prevent

cancellation of an agreement with enrolled participants (a) who violate any published policies of the organization which have been approved by the commissioner, or (b) who are entitled to become eligible for medicare benefits and fail to enroll for a medicare supplement plan offered by the health maintenance organization and approved by the commissioner, or (c) for failure of such enrolled participant to pay the approved charge, including cost-sharing, required under such contract, or (d) for a material breach of the health maintenance agreement.

(5) No agreement form or amendment to an approved agreement form shall be used unless it is first filed with the commissioner.

NEW SECTION. Sec. 11. The following acts or parts of acts are each repealed:

(1) Section 13, chapter 236, Laws of 1969 ex. sess., section 1, chapter 9, Laws of 1971 ex. sess. and RCW 8.25.170; and

(2) Section 3, chapter 80, Laws of 1899, section 1, chapter 88, Laws of 1971 ex. sess., section 15, chapter 156, Laws of 1981 and RCW 39.56.010.

Passed the Senate January 25, 1989.

Passed the House March 29, 1989.

Approved by the Governor April 17, 1989.

Filed in Office of Secretary of State April 17, 1989.

CHAPTER 11

[Senate Bill No. 5045]

REVISED CODE OF WASHINGTON—STATUTES AFFECTED BY VETO— CORRECTION

AN ACT Relating to correction of statutes affected by vetoes by the governor; amending RCW 9A.56.220, 15.85.050, 19.120.010, 28A.04.178, 28A.58.098, 35.50.050, 35.97.020, 35A.40.210, 38.38.012, 41.04.525, 41.59.020, 42.22.040, 43.20A.360, 43.41.170, 43.81.030, 43.83B.220, 43.88.030, 44.42.040, 48.19.500, 48.19.501, 49.70.100, 53.31.040, 63.14.167, 70.22.050, 74.04.660, 74.21.030, 77.21.070, 77.21.080, 80.28.240, and 90.70.060; reenacting and amending RCW 42.17.310; and repealing RCW 43.230.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 430, Laws of 1985 and RCW 9A.56.220 are each amended to read as follows:

(1) A person is guilty of theft of cable television services if:

(a) With intent to avoid payment of the lawful charge for any communication service of a cable system, he or she:

(i) Tampered with the equipment of the cable system, whether by mechanical, electrical, acoustical, or other means; or

(ii) Knowingly misrepresents a material fact; or

(iii) Uses any other artifice, trick, deception, code, or other device; and

(b) He or she wrongfully obtains cable communication services for himself or herself or another.