

**2019**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

2019 REGULAR SESSION  
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## WASHINGTON SESSION LAWS GENERAL INFORMATION

### 1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.
- (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs \$25.00 per set plus applicable state and local sales taxes and \$7.00 shipping and handling. All orders must be accompanied by payment.

### 2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

- (a) In amendatory sections
  - (i) underlined matter is new matter.
  - (ii) deleted matter is (~~lined out and bracketed between double parentheses~~).
- (b) Complete new sections are prefaced by the words NEW SECTION.

### 3. PARTIAL VETOES.

- (a) Vetoed matter is ***printed in bold italics.***
- (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

### 4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

### 5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2019 regular session is July 28, 2019.
- (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

### 6. INDEX AND TABLES.

A cumulative index and tables of all 2019 laws may be found at the back of the final volume.

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**CHAPTER 1**

[Initiative 940]

**LAW ENFORCEMENT—DEADLY FORCE—TRAINING**

AN ACT Relating to law enforcement; amending RCW 9A.16.040; adding new sections to chapter 43.101 RCW; adding new sections to chapter 36.28A RCW; and creating new sections.

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

**PART I****TITLE AND INTENT**

**NEW SECTION. Sec. 1.** This act may be known and cited as the law enforcement training and community safety act.

**NEW SECTION. Sec. 2.** The intent of the people in enacting this act is to make our communities safer. This is accomplished by requiring law enforcement officers to obtain violence de-escalation and mental health training, so that officers will have greater skills to resolve conflicts without the use of physical or deadly force. Law enforcement officers will receive first aid training and be required to render first aid, which will save lives and be a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts. Finally, the initiative adopts a "good faith" standard for officer criminal liability in those exceptional circumstances where deadly force is used, so that officers using deadly force in carrying out their duties in good faith will not face prosecution.

**PART II****REQUIRING LAW ENFORCEMENT OFFICERS TO RECEIVE VIOLENCE DE-ESCALATION TRAINING**

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Beginning one year after the effective date of this section, all law enforcement officers in the state of Washington must receive violence de-escalation training. Law enforcement officers beginning employment after the effective date of this section must successfully complete such training within the first fifteen months of employment. The commission shall set the date by which other law enforcement officers must successfully complete such training.

(2) All law enforcement officers shall periodically receive continuing violence de-escalation training to practice their skills, update their knowledge and training, and learn about new legal requirements and violence de-escalation strategies.

(3) The commission shall set training requirements through the procedures in section 5 of this act.

**PART III****REQUIRING LAW ENFORCEMENT OFFICERS TO RECEIVE MENTAL HEALTH TRAINING**

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Beginning one year after the effective date of this section, all law enforcement officers in the state of Washington must receive mental health training. Law enforcement officers beginning employment after the effective date of this section must successfully complete such training within the first

fifteen months of employment. The commission shall set the date by which other law enforcement officers must successfully complete such training.

(2) All law enforcement officers shall periodically receive continuing mental health training to update their knowledge about mental health issues and associated legal requirements, and to update and practice skills for interacting with people with mental health issues.

(3) The commission shall set training requirements through the procedures in section 5 of this act.

**PART IV**

**TRAINING REQUIREMENTS SHALL BE SET IN CONSULTATION WITH LAW ENFORCEMENT AND COMMUNITY STAKEHOLDERS**

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Within six months after the effective date of this section, the commission must consult with law enforcement agencies and community stakeholders and adopt rules for carrying out the training requirements of sections 3 and 4 of this act. Such rules must, at a minimum:

(a) Adopt training hour requirements and curriculum for initial violence de-escalation trainings required by this act;

(b) Adopt training hour requirements and curriculum for initial mental health trainings required by this act, which may include all or part of the mental health training curricula established under RCW 43.101.227 and 43.101.427;

(c) Adopt training hour requirements and curricula for continuing trainings required by this act;

(d) Establish means by which law enforcement officers will receive trainings required by this act; and

(e) Require compliance with this act's training requirements as a condition of maintaining certification.

(2) In developing curricula, the commission shall consider inclusion of the following:

(a) De-escalation in patrol tactics and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence;

(b) Alternatives to jail booking, arrest, or citation in situations where appropriate;

(c) Implicit and explicit bias, cultural competency, and the historical intersection of race and policing;

(d) Skills including de-escalation techniques to effectively, safely, and respectfully interact with people with disabilities and/or behavioral health issues;

(e) "Shoot/don't shoot" scenario training;

(f) Alternatives to the use of physical or deadly force so that deadly force is used only when unavoidable and as a last resort;

(g) Mental health and policing, including bias and stigma; and

(h) Using public service, including rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

(3) The initial violence de-escalation training must educate officers on the good faith standard for use of deadly force established by this act and how that standard advances violence de-escalation goals.

(4) The commission may provide trainings, alone or in partnership with private parties or law enforcement agencies, authorize private parties or law enforcement agencies to provide trainings, or any combination thereof. The entity providing the training may charge a reasonable fee.

## PART V

### ESTABLISHING LAW ENFORCEMENT OFFICERS' DUTY TO RENDER FIRST AID

NEW SECTION. **Sec. 6.** A new section is added to chapter 36.28A RCW to read as follows:

(1) It is the policy of the state of Washington that all law enforcement personnel must render first aid to save lives.

(2) Within one year after the effective date of this section, the Washington state criminal justice training commission, in consultation with the Washington state patrol, the Washington association of sheriffs and police chiefs, organizations representing state and local law enforcement officers, health providers and/or health policy organizations, tribes, and community stakeholders, shall develop guidelines for implementing the duty to render first aid adopted in this section. The guidelines must: (a) Adopt first aid training requirements; (b) assist agencies and law enforcement officers in balancing competing public health and safety duties; and (c) establish that law enforcement officers have a paramount duty to preserve the life of persons whom the officer comes into direct contact with while carrying out official duties, including providing or facilitating immediate first aid to those in agency care or custody at the earliest opportunity.

## PART VI

### ADOPTING A "GOOD FAITH" STANDARD FOR LAW ENFORCEMENT OFFICER USE OF DEADLY FORCE

**Sec. 7.** RCW 9A.16.040 and 1986 c 209 s 2 are each amended to read as follows:

(1) Homicide or the use of deadly force is justifiable in the following cases:

(a) When a public officer applies deadly force (~~(is acting)~~) in obedience to the judgment of a competent court; or

(b) When necessarily used by a peace officer meeting the good faith standard of this section to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty~~(-);~~ or

(c) When necessarily used by a peace officer meeting the good faith standard of this section or person acting under the officer's command and in the officer's aid:

(i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;

(ii) To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility; (~~(or)~~)

(iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or

(iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

(2) In considering whether to use deadly force under subsection (1)(c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

(a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or

(b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given, provided the officer meets the good faith standard of this section.

(3) A public officer (~~(or peace officer)~~) covered by subsection (1)(a) of this section shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.

(4) A law enforcement officer shall not be held criminally liable for using deadly force if such officer meets the good faith standard adopted in this section.

(5) The following good faith standard is adopted for law enforcement officer use of deadly force:

(a) The good faith standard is met only if both the objective good faith test in (b) of this subsection and the subjective good faith test in (c) of this subsection are met.

(b) The objective good faith test is met if a reasonable officer, in light of all the facts and circumstances known to the officer at the time, would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

(c) The subjective good faith test is met if the officer intended to use deadly force for a lawful purpose and sincerely and in good faith believed that the use of deadly force was warranted in the circumstance.

(d) Where the use of deadly force results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform the determination of whether the use of deadly force met the objective good faith test established by this section and satisfied other applicable laws and policies.

(6) For the purpose of this section, "law enforcement officer" means any law enforcement officer in the state of Washington, including but not limited to law enforcement personnel and peace officers as defined by RCW 43.101.010.

(7) This section shall not be construed as:

(a) Affecting the permissible use of force by a person acting under the authority of RCW 9A.16.020 or 9A.16.050; or

(b) Preventing a law enforcement agency from adopting standards pertaining to its use of deadly force that are more restrictive than this section.

**PART VII  
MISCELLANEOUS**

**NEW SECTION. Sec. 8.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act. Nothing in this act precludes local jurisdictions or law enforcement agencies from enacting additional training requirements or requiring law enforcement officers to provide first aid in more circumstances than required by this act or guidelines adopted under this act.

**NEW SECTION. Sec. 9.** Except where a different timeline is provided in this act, the Washington state criminal justice training commission must adopt any rules necessary for carrying out the requirements of this act within one year after the effective date of this section. In carrying out all rule making under this act, the commission shall seek input from the attorney general, law enforcement agencies, tribes, and community stakeholders. The commission shall consider the use of negotiated rule making. The rules must require that procedures under RCW 9A.16.040(5)(d) be carried out completely independent of the agency whose officer was involved in the use of deadly force; and, when the deadly force is used on a tribal member, such procedures must include consultation with the member's tribe and, where appropriate, information sharing with such tribe. Where this act requires involvement of community stakeholders, input must be sought from organizations advocating for: Persons with disabilities; members of the lesbian, gay, bisexual, transgender, and queer community; persons of color; immigrants; non-citizens; native Americans; youth; and formerly incarcerated persons.

**NEW SECTION. Sec. 10.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 11.** For constitutional purposes, the subject of this act is "law enforcement."

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**CHAPTER 2**

[Initiative 1634]

**LOCAL GOVERNMENT TAXATION OF FOODS AND BEVERAGES**

AN ACT Relating to the taxation of groceries; and adding a new chapter to Title 82 RCW.

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

**NEW SECTION. Sec. 1.** SHORT TITLE. This chapter may be known and cited as the "keep groceries affordable act of 2018."

**NEW SECTION. Sec. 2.** KEEPING GROCERIES AFFORDABLE: FINDINGS AND DECLARATIONS. (1) Whereas access to food is a basic human need of every Washingtonian; and

(2) Whereas keeping the price of groceries as low as possible improves the access to food for all Washingtonians; and

(3) Whereas taxing groceries is regressive and hurts low- and fixed-income Washingtonians the most; and

(4) Whereas working families in Washington pay a greater share of their family income in state and local taxes than their wealthier counterparts; now, therefore,

(5) The people of the state of Washington find and declare that no local governmental entity may impose any new tax, fee, or other assessment that targets grocery items.

**NEW SECTION. Sec. 3. DEFINITIONS.** For purposes of this chapter:

(1) "Alcoholic beverages" has the same meaning as provided in RCW 82.08.0293.

(2) "Groceries" means any raw or processed food or beverage, or any ingredient thereof, intended for human consumption except alcoholic beverages, marijuana products, and tobacco. "Groceries" includes, but is not limited to, meat, poultry, fish, fruits, vegetables, grains, bread, milk, cheese and other dairy products, nonalcoholic beverages, kombucha with less than 0.5% alcohol by volume, condiments, spices, cereals, seasonings, leavening agents, eggs, cocoa, teas, and coffees whether raw or processed.

(3) "Local governmental entity" has the same meaning as provided in RCW 4.96.010.

(4) "Marijuana products" has the same meaning as provided in RCW 69.50.101.

(5) "Tax, fee, or other assessment on groceries" includes, but is not limited to, a sales tax, gross receipts tax, business and occupation tax, business license tax, excise tax, privilege tax, or any other similar levy, charge, or exaction of any kind on groceries or the manufacture, distribution, sale, possession, ownership, transfer, transportation, container, use, or consumption thereof.

(6) "Tobacco" has the same meaning as provided in RCW 82.08.0293.

**NEW SECTION. Sec. 4. KEEPING GROCERIES TAX FREE—PROTECTING TRADITIONAL LOCAL REVENUE STREAMS—CONTINUED AUTHORITY.** Notwithstanding any other law to the contrary:

(1) Except as provided in subsections (2) through (4) of this section, a local governmental entity may not impose or collect any tax, fee, or other assessment on groceries.

(2) Nothing in this section precludes the continued collection of any existing tax, fee, or other assessment on groceries as is in effect as of January 15, 2018; but no existing tax, fee, or other assessment on groceries may be increased in rate, scope, base, or otherwise after January 15, 2018, except as provided in subsections (3) and (4) of this section.

(3) Nothing in this section prohibits the imposition and collection of a tax, fee, or other assessment on groceries if:

(a) The tax, fee, or other assessment is generally applicable to a broad range of businesses and business activity; and

(b) The tax, fee, or other assessment does not establish or rely on a classification related to or involving groceries or a subset of groceries for purposes of establishing or otherwise resulting in a higher tax rate due to such classification.

(4) Nothing in this section prohibits the imposition and collection of a local retail sales and use tax pursuant to RCW 82.14.030 on those persons taxable by the state under chapters 82.08 and 82.12 RCW.

NEW SECTION. Sec. 5. IMPLEMENTATION. Notwithstanding any other law to the contrary:

(1) This chapter applies to any tax, fee, or other assessment on groceries first imposed, increased, or collected by a local governmental entity on or after January 15, 2018.

(2) The provisions of this chapter are to be construed liberally so as to effectuate their intent, policy, and purposes.

NEW SECTION. Sec. 6. SEVERABILITY. (1) 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.

(2) The people of the state of Washington hereby declare that they would have adopted this chapter, and each and every portion, section, subsection, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this chapter, or application thereof, would be subsequently declared invalid.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act constitute a new chapter in Title 82 RCW.

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### CHAPTER 3

[Initiative 1639]

#### FIREARMS

AN ACT Relating to increasing public safety by implementing firearm safety measures, including requiring enhanced background checks, waiting periods, and increased age requirements for semiautomatic assault rifles and secure gun storage for all firearms; amending RCW 9.41.090, 9.41.092, 9.41.094, 9.41.097, 9.41.0975, 9.41.110, 9.41.113, 9.41.124, 9.41.240, 9.41.129, and 9.41.010; adding new sections to chapter 9.41 RCW; creating new sections; prescribing penalties; and providing effective dates.

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

NEW SECTION. Sec. 1. INTENT. Gun violence is far too common in Washington and the United States. In particular, shootings involving the use of semiautomatic assault rifles have resulted in hundreds of lives lost, devastating injuries, and lasting psychological impacts on survivors, their families, and communities. Semiautomatic assault rifles are specifically designed to kill quickly and efficiently and have been used in some of the country's deadliest mass shootings, including in Newtown, Connecticut; Las Vegas, Nevada; and Parkland and Orlando, Florida, among others. Semiautomatic assault rifles have also been used in deadly shootings in Washington, including in Mukilteo and Tacoma.

The impacts of gun violence by assault weapons fall heavily on children and teenagers. According to one analysis, more than two hundred eight thousand students attending at least two hundred twelve schools have experienced a shooting on campus since the Columbine mass shooting in 1999. Active shooter drills are normal for a generation of American schoolchildren, instilling at a young age the sad and unnecessary realization that a mass shooting can happen in any community, in any school, at any time.

Enough is enough. The people find and declare that it is crucial and urgent to pass laws to increase public safety and reduce gun violence.

Implementing an enhanced background check system for semiautomatic assault rifles that is as strong as the one required to purchase a handgun and requiring safety training and a waiting period will help ensure that we keep these weapons out of dangerous hands. Further, federal law prohibits the sale of pistols to individuals under the age of twenty-one and at least a dozen states further restrict the ownership or possession of firearms by individuals under the age of twenty-one. This makes sense, as studies show that eighteen to twenty year olds commit a disproportionate number of firearm homicides in the United States and research indicates that the brain does not fully mature until a later age. Raising the minimum age to purchase semiautomatic assault rifles to twenty-one is a commonsense step the people wish to take to increase public safety.

Finally, firearms taken from the home by children or other persons prohibited from possessing firearms have been at the heart of several tragic gun violence incidents. One study shows that over eighty-five percent of school shooters obtained the firearm at their home or from a friend or relative. Another study found that more than seventy-five percent of firearms used in youth suicide attempts and unintentional injuries were stored in the residence of the victim, a relative, or a friend. Secure gun storage requirements for all firearms will increase public safety by helping ensure that children and other prohibited persons do not inappropriately gain access to firearms, and notice requirements will make the potential dangers of firearms clear to purchasers.

Therefore, to increase public safety for all Washingtonians, in particular our children, this measure would, among other things: Create an enhanced background check system applicable to semiautomatic assault rifles similar to what is required for handguns, require that individuals complete a firearm safety training course and be at least twenty-one years of age to purchase or possess such weapons, enact a waiting period for the purchase of such weapons, and establish standards for the responsible storage of all firearms.

NEW SECTION. Sec. 2. SHORT TITLE. This act may be known and cited as the public safety and semiautomatic assault rifle act.

**Sec. 3.** RCW 9.41.090 and 2018 c 201 s 6003 are each amended to read as follows:

**ENHANCED BACKGROUND CHECKS.**

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection ~~((5))~~ (6) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is



eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

(2) In addition to the other requirements of this chapter, no dealer may deliver a semiautomatic assault rifle to the purchaser thereof until:

(a) The purchaser provides proof that he or she has completed a recognized firearm safety training program within the last five years that, at a minimum, includes instruction on:

(i) Basic firearms safety rules;

(ii) Firearms and children, including secure gun storage and talking to children about gun safety;

(iii) Firearms and suicide prevention;

(iv) Secure gun storage to prevent unauthorized access and use;

(v) Safe handling of firearms; and

(vi) State and federal firearms laws, including prohibited firearms transfers.

The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury the training included the minimum requirements; and

(b) The dealer is notified in writing by (i) the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a firearm under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or (ii) the state that the purchaser is eligible to possess a firearm under RCW 9.41.040, as provided in subsection (3)(b) of this section; or

(c) The requirements or time periods in RCW 9.41.092 have been satisfied.

(3)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the national crime information center, including the national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) The state, through the legislature or initiative process, may enact a statewide firearms background check system equivalent to, or more comprehensive than, the check required by (a) of this subsection to determine that a purchaser is eligible to possess a firearm under RCW 9.41.040. Once ~~((the))~~ a state system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms. ~~((However, a chief of police or sheriff, or a designee of either, shall continue to check the health care authority's electronic database and with other agencies or resources as~~

~~appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.~~

~~(3))~~ (4) In any case under this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol or semiautomatic assault rifle until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale, or the state pursuant to subsection (3)(b) of this section, shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol or semiautomatic assault rifle is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a ~~((pistol))~~ firearm.

~~((4))~~ (5) In any case where the chief or sheriff of the local jurisdiction, or the state pursuant to subsection (3)(b) of this section, has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a ~~((pistol))~~ firearm, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a ~~((pistol))~~ firearm, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a ~~((pistol))~~ firearm, the local jurisdiction or the state may hold the sale and delivery of the pistol or semiautomatic assault rifle up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court, superior court, or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement or the state and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

~~((5))~~ (6)(a) At the time of applying for the purchase of a pistol or semiautomatic assault rifle, the purchaser shall sign in triplicate and deliver to the dealer an application containing:

(i) His or her full name, residential address, date and place of birth, race, and gender;

(ii) The date and hour of the application;

(iii) The applicant's driver's license number or state identification card number;

(iv) A description of the pistol or semiautomatic assault rifle including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol or semiautomatic assault rifle. If the manufacturer's number is not available at the time of applying for the purchase of a pistol or semiautomatic assault rifle, the application may be processed, but delivery of the pistol or semiautomatic assault rifle to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides, or the state pursuant to subsection (3)(b) of this section; ~~((and))~~

(v) A statement that the purchaser is eligible to purchase and possess a ~~(pistol)~~ firearm under ~~(RCW 9.41.040)~~ state and federal law; and

(vi) If purchasing a semiautomatic assault rifle, a statement by the applicant under penalty of perjury that the applicant has completed a recognized firearm safety training program within the last five years, as required by subsection (2) of this section.

(b) The application shall contain ~~((a))~~ two warnings substantially stated as follows:

(i) CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution; and

(ii) CAUTION: The presence of a firearm in the home has been associated with an increased risk of death to self and others, including an increased risk of suicide, death during domestic violence incidents, and unintentional deaths to children and others.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms~~(s)~~ and firearms safety~~(s)~~ and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law).

(c) The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsections (1) and (2) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to subsection (3)(b) of this section. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol or semiautomatic assault rifle to the purchaser following the period of time specified in this chapter unless the dealer is notified of an investigative hold under subsection ~~((4))~~ (5) of this section in writing by the chief of police of the municipality ~~((or))~~, the sheriff of the county, or the state, whichever is applicable, ~~((denying))~~ or of the denial of the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to purchase or possess ~~((a pistol))~~ the firearm under ~~(RCW 9.41.040)~~ state or ~~((9.41.045, or))~~ federal law.

(d) The chief of police of the municipality or the sheriff of the county, or the state pursuant to subsection (3)(b) of this section, shall retain or destroy applications to purchase a pistol or semiautomatic assault rifle in accordance with the requirements of 18 U.S.C. Sec. 922.

~~((6))~~ (7)(a) To help offset the administrative costs of implementing this section as it relates to new requirements for semiautomatic assault rifles, the department of licensing may require the dealer to charge each semiautomatic assault rifle purchaser or transferee a fee not to exceed twenty-five dollars, except that the fee may be adjusted at the beginning of each biennium to levels not to exceed the percentage increase in the consumer price index for all urban consumers, CPI-W, or a successor index, for the previous biennium as calculated by the United States department of labor.

(b) The fee under (a) of this subsection shall be no more than is necessary to fund the following:

(i) The state for the cost of meeting its obligations under this section;

(ii) The health care authority, mental health institutions, and other health care facilities for state-mandated costs resulting from the reporting requirements imposed by RCW 9.41.097(1); and

(iii) Local law enforcement agencies for state-mandated local costs resulting from the requirements set forth under RCW 9.41.090 and this section.

(8) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a (~~(pistol)~~) firearm is guilty of false swearing under RCW 9A.72.040.

~~((7))~~ (9) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

**Sec. 4.** RCW 9.41.092 and 2018 c 145 s 4 are each amended to read as follows:

WAITING PERIOD.

(1) Except as otherwise provided in this chapter and except for semiautomatic assault rifles under subsection (2) of this section, a licensed dealer may not deliver any firearm to a purchaser or transferee until the earlier of:

~~((+))~~ (a) The results of all required background checks are known and the purchaser or transferee ~~((a))~~ (i) is not prohibited from owning or possessing a firearm under federal or state law and ~~((b))~~ (ii) does not have a voluntary waiver of firearm rights currently in effect; or

~~((2))~~ (b) Ten business days have elapsed from the date the licensed dealer requested the background check. However, for sales and transfers of pistols if the purchaser or transferee does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, then the time period in this subsection shall be extended from ten business days to sixty days.

(2) Except as otherwise provided in this chapter, a licensed dealer may not deliver a semiautomatic assault rifle to a purchaser or transferee until ten business days have elapsed from the date of the purchase application or, in the case of a transfer, ten business days have elapsed from the date a background check is initiated.

NEW SECTION. **Sec. 5.** A new section is added to chapter 9.41 RCW to read as follows:

SECURE GUN STORAGE.

(1) A person who stores or leaves a firearm in a location where the person knows, or reasonably should know, that a prohibited person may gain access to the firearm:

(a) Is guilty of community endangerment due to unsafe storage of a firearm in the first degree if a prohibited person obtains access and possession of the firearm and causes personal injury or death with the firearm; or

(b) Is guilty of community endangerment due to unsafe storage of a firearm in the second degree if a prohibited person obtains access and possession of the firearm and:

(i) Causes the firearm to discharge;

(ii) Carries, exhibits, or displays the firearm in a public place in a manner that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons; or

(iii) Uses the firearm in the commission of a crime.

(2)(a) Community endangerment due to unsafe storage of a firearm in the first degree is a class C felony punishable according to chapter 9A.20 RCW.

(b) Community endangerment due to unsafe storage of a firearm in the second degree is a gross misdemeanor punishable according to chapter 9A.20 RCW.

(3) Subsection (1) of this section does not apply if:

(a) The firearm was in secure gun storage, or secured with a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm;

(b) In the case of a person who is a prohibited person on the basis of the person's age, access to the firearm is with the lawful permission of the prohibited person's parent or guardian and supervised by an adult, or is in accordance with RCW 9.41.042;

(c) The prohibited person obtains, or obtains and discharges, the firearm in a lawful act of self-defense; or

(d) The prohibited person's access to the firearm was obtained as a result of an unlawful entry, provided that the unauthorized access or theft of the firearm is reported to a local law enforcement agency in the jurisdiction in which the unauthorized access or theft occurred within five days of the time the victim of the unlawful entry knew or reasonably should have known that the firearm had been taken.

(4) If a death or serious injury occurs as a result of an alleged violation of subsection (1)(a) of this section, the prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose or would defeat the purpose of the law in question.

(5) For the purposes of this section, "prohibited person" means a person who is prohibited from possessing a firearm under state or federal law.

(6) Nothing in this section mandates how or where a firearm must be stored.

NEW SECTION. **Sec. 6.** A new section is added to chapter 9.41 RCW to read as follows:

**AVAILABILITY OF SECURE GUN STORAGE.**

(1) When selling or transferring any firearm, every dealer shall offer to sell or give the purchaser or transferee a secure gun storage device, or a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm.

(2) Every store, shop, or sales outlet where firearms are sold, that is registered as a dealer in firearms with the department of licensing, shall conspicuously post, in a prominent location so that all patrons may take notice, the following warning sign, to be provided by the department of licensing, in block letters at least one inch in height:

**WARNING: YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN UNSECURED FIREARM WHERE A PERSON WHO IS PROHIBITED FROM POSSESSING FIREARMS CAN AND DOES OBTAIN POSSESSION.**

(3) Every store, shop, or sales outlet where firearms are sold that is registered as a dealer in firearms with the department of licensing, upon the sale or transfer of a firearm, shall deliver a written warning to the purchaser or transferee that states, in block letters not less than one-fourth inch in height:

WARNING: YOU MAY FACE CRIMINAL PROSECUTION IF YOU STORE OR LEAVE AN UNSECURED FIREARM WHERE A PERSON WHO IS PROHIBITED FROM POSSESSING FIREARMS CAN AND DOES OBTAIN POSSESSION.

(4) Every person who violates this section is guilty of a class 1 civil infraction under chapter 7.80 RCW and may be fined up to two hundred fifty dollars. However, no such fines may be levied until thirty days have expired from the time warning signs required under subsection (2) of this section are distributed by the department of licensing.

**Sec. 7.** RCW 9.41.094 and 2018 c 201 s 6004 are each amended to read as follows:

A signed application to purchase a pistol or semiautomatic assault rifle shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol or semiautomatic assault rifle to an inquiring court or law enforcement agency.

**Sec. 8.** RCW 9.41.097 and 2018 c 201 s 6005 are each amended to read as follows:

(1) The health care authority, mental health institutions, and other health care facilities shall, upon request of a court (~~((or))~~), law enforcement agency, or the state, supply such relevant information as is necessary to determine the eligibility of a person to possess a (~~((pistol))~~) firearm or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol or semiautomatic assault rifle under RCW 9.41.090.

(2) Mental health information received by: (a) The department of licensing pursuant to RCW 9.41.047 or 9.41.173; (b) an issuing authority pursuant to RCW 9.41.047 or 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.173; (d) a court or law enforcement agency pursuant to subsection (1) of this section; or (e) the state pursuant to RCW 9.41.090, shall not be disclosed except as provided in RCW 42.56.240(4).

**Sec. 9.** RCW 9.41.0975 and 2009 c 216 s 7 are each amended to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license or alien firearm license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license or alien firearm license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license or alien firearm license;

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license or alien firearm license;

(g) For issuing a dealer's license to a person ineligible for such a license; or

(h) For failing to issue a dealer's license to a person eligible for such a license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license or alien firearm license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase a pistol or semiautomatic assault rifle wrongfully denied;

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or alien firearm license or in the wrongful denial of a purchase application for a pistol or semiautomatic assault rifle be corrected; or

(d) Directing a law enforcement agency to approve a dealer's license wrongfully denied.

The application for the writ may be made in the county in which the application for a concealed pistol license or alien firearm license or to purchase a pistol or semiautomatic assault rifle was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**Sec. 10.** RCW 9.41.110 and 2009 c 479 s 10 are each amended to read as follows:

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in RCW 9.41.010 through 9.41.810. A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the

license. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card, or has not been a resident of the state for the previous consecutive ninety days, the licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

(b) A dealer shall require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of pistols or semiautomatic assault rifles that are applicable to dealers.

(6)(a) Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying on of business.

(b) A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and ~~((9.41.110))~~ this section. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

(7) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

(8)(a) No pistol or semiautomatic assault rifle may be sold: (i) In violation of any provisions of RCW 9.41.010 through 9.41.810; nor (ii) may a pistol or semiautomatic assault rifle be sold under any circumstances unless the purchaser is personally known to the dealer or shall present clear evidence of his or her identity.

(b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols shall be one hundred twenty-five dollars. The license fee for firearms other than pistols shall be one hundred twenty-five dollars. The license fee for ammunition shall be one hundred twenty-five dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this



section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the state general fund.

(9)(a) A true record in triplicate shall be made of every pistol or semiautomatic assault rifle sold, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, and place of birth of the purchaser, and a statement signed by the purchaser that he or she is not ineligible under (~~RCW 9.41.040~~) state or federal law to possess a firearm.

(b) One copy shall within six hours be sent by certified mail to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident, or the state pursuant to RCW 9.41.090; the duplicate the dealer shall within seven days send to the director of licensing; the triplicate the dealer shall retain for six years.

(10) Subsections (2) through (9) of this section shall not apply to sales at wholesale.

(11) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses. The department shall provide a single application form for dealer's licenses and a single license form which shall indicate the type or types of licenses granted.

(12) Except as provided in RCW 9.41.090, every city, town, and political subdivision of this state is prohibited from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

**Sec. 11.** RCW 9.41.113 and 2017 c 264 s 2 are each amended to read as follows:

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

(2) No person shall sell or transfer a firearm unless:

- (a) The person is a licensed dealer;
- (b) The purchaser or transferee is a licensed dealer; or
- (c) The requirements of subsection (3) of this section are met.

(3) Where neither party to a prospective firearms transaction is a licensed dealer, the parties to the transaction shall complete the sale or transfer through a licensed dealer as follows:

(a) The seller or transferor shall deliver the firearm to a licensed dealer to process the sale or transfer as if it is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the

background check is being conducted, the purchaser or transferee and the seller or transferor shall return to the business premises of the licensed dealer and the seller or transferor shall again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

(b) Except as provided in (a) of this subsection, the licensed dealer shall comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including but not limited to conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements ~~((and))~~, fulfilling all federal and state recordkeeping requirements, and complying with the specific requirements and restrictions on semiautomatic assault rifles in this act.

(c) The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check.

(d) If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer shall return the firearm to the seller or transferor.

(e) The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

(4) This section does not apply to:

(a) A transfer between immediate family members, which for this subsection shall be limited to spouses, domestic partners, parents, parents-in-law, children, siblings, siblings-in-law, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift or loan;

(b) The sale or transfer of an antique firearm;

(c) A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

(i) The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

(ii) The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(d) A temporary transfer of possession of a firearm if: (i) The transfer is intended to prevent suicide or self-inflicted great bodily harm; (ii) the transfer lasts only as long as reasonably necessary to prevent death or great bodily harm; and (iii) the firearm is not utilized by the transferee for any purpose for the duration of the temporary transfer;

(e) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

(f) A federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

(g) The temporary transfer of a firearm (i) between spouses or domestic partners; (ii) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the

jurisdiction in which such range is located; (iii) if the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (iv) to a person who is under eighteen years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; (v) under circumstances in which the transferee and the firearm remain in the presence of the transferor; or (vi) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer allowed by this subsection is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(h) A person who (i) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or (ii) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding sixty days. At the end of the sixty-day period, the person must either have lawfully transferred the pistol or must have contacted the department of licensing to notify the department that he or she has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws; or

(i) A sale or transfer when the purchaser or transferee is a licensed collector and the firearm being sold or transferred is a curio or relic.

**Sec. 12.** RCW 9.41.124 and 2015 c 1 s 7 are each amended to read as follows:

Residents of a state other than Washington may purchase rifles and shotguns, except those firearms defined as semiautomatic assault rifles, in Washington: PROVIDED, That such residents conform to the applicable provisions of the federal Gun Control Act of 1968, Title IV, Pub. L. 90-351 as administered by the United States secretary of the treasury: AND PROVIDED FURTHER, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside: AND PROVIDED FURTHER, That such residents are subject to the procedures and background checks required by this chapter.

**Sec. 13.** RCW 9.41.240 and 1994 sp.s. c 7 s 423 are each amended to read as follows:

(1) A person under twenty-one years of age may not purchase a pistol or semiautomatic assault rifle, and except as otherwise provided in this chapter, no person may sell or transfer a semiautomatic assault rifle to a person under twenty-one years of age.

(2) Unless an exception under RCW 9.41.042, 9.41.050, or 9.41.060 applies, a person at least eighteen years of age, but less than twenty-one years of age, may possess a pistol only:

~~((1))~~ (a) In the person's place of abode;

~~((2))~~ (b) At the person's fixed place of business; or

~~((3))~~ (c) On real property under his or her control.

(3) Except in the places and situations identified in RCW 9.41.042 (1) through (9) and 9.41.060 (1) through (10), a person at least eighteen years of age, but less than twenty-one years of age, may possess a semiautomatic assault rifle only:

(a) In the person's place of abode;

(b) At the person's fixed place of business;

(c) On real property under his or her control; or

(d) For the specific purpose of (i) moving to a new place of abode; (ii) traveling between the person's place of abode and real property under his or her control; or (iii) selling or transferring the firearm in accordance with the requirements of this chapter; provided that in all of these situations the semiautomatic assault rifle is unloaded and either in secure gun storage or secured with a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm.

**Sec. 14.** RCW 9.41.129 and 2005 c 274 s 203 are each amended to read as follows:

The department of licensing (~~may~~) shall keep copies or records of applications for concealed pistol licenses provided for in RCW 9.41.070, copies or records of applications for alien firearm licenses, copies or records of applications to purchase pistols or semiautomatic assault rifles provided for in RCW 9.41.090, and copies or records of pistol or semiautomatic assault rifle transfers provided for in RCW 9.41.110. The copies and records shall not be disclosed except as provided in RCW 42.56.240(4).

NEW SECTION. Sec. 15. A new section is added to chapter 9.41 RCW to read as follows:

(1) Within twelve months of the effective date of this section, the department of licensing shall, in conjunction with the Washington state patrol and other state and local law enforcement agencies as necessary, develop a cost-effective and efficient process to:

(a) Verify, on an annual or more frequent basis, that persons who acquired pistols or semiautomatic assault rifles pursuant to this chapter remain eligible to possess a firearm under state and federal law; and

(b) If such persons are determined to be ineligible for any reason, (i) notify and provide the relevant information to the chief of police or the sheriff of the jurisdiction in which the purchaser resides and (ii) take steps to ensure such persons are not illegally in possession of firearms.

(2) The department of licensing, where appropriate, may consult with individuals from the public and private sector or ask the individuals to establish a temporary advisory committee to accomplish the purposes in subsection (1) of this section. Members of such an advisory committee are not entitled to expense reimbursement.

**Sec. 16.** RCW 9.41.010 and 2018 c 7 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock,

flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Bump-fire stock" means a butt stock designed to be attached to a semiautomatic firearm with the effect of increasing the rate of fire achievable with the semiautomatic firearm to that of a fully automatic firearm by using the energy from the recoil of the firearm to generate reciprocating action that facilitates repeated activation of the trigger.

(4) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(5) "Curio or relic" has the same meaning as provided in 27 C.F.R. Sec. 478.11.

(6) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(7) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(8) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(9) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(10) "Felony firearm offense" means:

- (a) Any felony offense that is a violation of this chapter;
- (b) A violation of RCW 9A.36.045;
- (c) A violation of RCW 9A.56.300;
- (d) A violation of RCW 9A.56.310;
- (e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(11) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(12) "Gun" has the same meaning as firearm.

(13) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

(14) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

(15) "Licensed collector" means a person who is federally licensed under 18 U.S.C. Sec. 923(b).

(16) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(17) "Loaded" means:

- (a) There is a cartridge in the chamber of the firearm;
  - (b) Cartridges are in a clip that is locked in place in the firearm;
  - (c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;
  - (d) There is a cartridge in the tube or magazine that is inserted in the action;
- or

(e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

(18) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(19) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

(20) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(21) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

(22) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic

cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(23) "Sale" and "sell" mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment.

(24) "Secure gun storage" means:

(a) A locked box, gun safe, or other secure locked storage space that is designed to prevent unauthorized use or discharge of a firearm; and

(b) The act of keeping an unloaded firearm stored by such means.

(25) "Semiautomatic assault rifle" means any rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

"Semiautomatic assault rifle" does not include antique firearms, any firearm that has been made permanently inoperable, or any firearm that is manually operated by bolt, pump, lever, or slide action.

(26) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under RCW 9.41.115.

~~((25))~~ (27) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((26))~~ (28) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((27))~~ (29) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

~~((28))~~ (30) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans. "Transfer" does not include the delivery of a firearm owned or leased by an entity licensed or qualified to do business in the state of Washington to, or return of such a firearm by, any of that entity's employees or agents, defined to include volunteers participating in an honor guard, for lawful purposes in the ordinary course of business.

~~((29))~~ (31) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

NEW SECTION. **Sec. 17.** This act takes effect July 1, 2019, except for section 13 of this act which takes effect January 1, 2019.

NEW SECTION. **Sec. 18.** The director of the department of licensing may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. **Sec. 19.** If any provision of this act or its application to any person or circumstance is held invalid or preempted by federal law, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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## CHAPTER 4

[Substitute House Bill 1064]

### LAW ENFORCEMENT

AN ACT Relating to law enforcement; amending 2019 c 1 s 9 (uncodified); reenacting and amending RCW 43.101.455, 36.28A.445, and 9A.16.040; adding new sections to chapter 10.114 RCW; adding a new section to chapter 9A.16 RCW; repealing RCW 10.114.010, 10.114.020, and 9A.16.045; repealing 2018 c 10 ss 1, 2, and 3 and 2018 c 11 ss 3, 4, 5, 6, and 7; repealing 2018 c 10 ss 4, 8, 9, and 10 and 2018 c 11 ss 1, 2, 8, 9, 10, and 11 (uncodified); and declaring an emergency.

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

**Sec. 1.** RCW 43.101.455 and 2019 c 1 s 5 (Initiative Measure No. 940) are each reenacted and amended to read as follows:

(1) Within six months after December 6, 2018, the commission must consult with law enforcement agencies and community stakeholders and adopt rules for carrying out the training requirements of RCW 43.101.450 and 43.101.452. Such rules must, at a minimum:

(a) Adopt training hour requirements and curriculum for initial violence de-escalation trainings required by ~~((this act))~~ chapter 1, Laws of 2019;

(b) Adopt training hour requirements and curriculum for initial mental health trainings required by ~~((this act))~~ chapter 1, Laws of 2019, which may



include all or part of the mental health training curricula established under RCW 43.101.227 and 43.101.427;

(c) Adopt annual training hour requirements and curricula for continuing trainings required by ~~((this act))~~ chapter 1, Laws of 2019;

(d) Establish means by which law enforcement officers will receive trainings required by ~~((this act))~~ chapter 1, Laws of 2019; and

(e) Require compliance with ~~((this act's))~~ chapter 1, Laws of 2019 training requirements ~~((as a condition of maintaining certification))~~.

(2) In developing curricula, the commission shall consider inclusion of the following:

(a) De-escalation in patrol tactics and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence;

(b) Alternatives to jail booking, arrest, or citation in situations where appropriate;

(c) Implicit and explicit bias, cultural competency, and the historical intersection of race and policing;

(d) Skills including de-escalation techniques to effectively, safely, and respectfully interact with people with disabilities and/or behavioral health issues;

(e) "Shoot/don't shoot" scenario training;

(f) Alternatives to the use of physical or deadly force so that de-escalation tactics and less lethal alternatives are part of the decision-making process leading up to the consideration of deadly force ~~((is used only when unavoidable and as a last resort))~~;

(g) Mental health and policing, including bias and stigma; and

(h) Using public service, including rendering of first aid, to provide a positive point of contact between law enforcement officers and community members to increase trust and reduce conflicts.

(3) The initial violence de-escalation training must educate officers on the good faith standard for use of deadly force established by ~~((this act))~~ chapter 1, Laws of 2019 and how that standard advances violence de-escalation goals.

(4) The commission may provide trainings, alone or in partnership with private parties or law enforcement agencies, authorize private parties or law enforcement agencies to provide trainings, or any combination thereof. The entity providing the training may charge a reasonable fee.

**Sec. 2.** RCW 36.28A.445 and 2019 c 1 s 6 (Initiative Measure No. 940) are each reenacted and amended to read as follows:

(1) It is the policy of the state of Washington that all law enforcement personnel must ~~((render first aid to save lives))~~ provide or facilitate first aid such that it is rendered at the earliest safe opportunity to injured persons at a scene controlled by law enforcement.

(2) Within one year after December 6, 2018, the Washington state criminal justice training commission, in consultation with the Washington state patrol, the Washington association of sheriffs and police chiefs, organizations representing state and local law enforcement officers, health providers and/or health policy organizations, tribes, and community stakeholders, shall develop guidelines for implementing the duty to render first aid adopted in this section. The guidelines must: (a) Adopt first aid training requirements; (b) address best practices for securing a scene to facilitate the safe, swift, and effective provision of first aid to

anyone injured in a scene controlled by law enforcement or as a result of law enforcement action; and (c) assist agencies and law enforcement officers in balancing ((competing public health and safety duties; and (c) establish that law enforcement officers have a paramount duty to preserve the life of persons whom the officer comes into direct contact with while carrying out official duties, including providing or facilitating immediate first aid to those in agency care or custody at the earliest opportunity)) the many essential duties of officers with the solemn duty to preserve the life of persons with whom officers come into direct contact.

**Sec. 3.** RCW 9A.16.040 and 2019 c 1 s 7 (Initiative Measure No. 940) are each reenacted and amended to read as follows:

(1) Homicide or the use of deadly force is justifiable in the following cases:

(a) When a public officer applies deadly force in obedience to the judgment of a competent court; or

(b) When necessarily used by a peace officer meeting the good faith standard of this section to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty; or

(c) When necessarily used by a peace officer meeting the good faith standard of this section or person acting under the officer's command and in the officer's aid:

(i) To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;

(ii) To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility;

(iii) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or

(iv) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

(2) In considering whether to use deadly force under subsection (1)(c) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

(a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or

(b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given, provided the officer meets the good faith standard of this section.

(3) A public officer covered by subsection (1)(a) of this section shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.

(4) A ~~((law enforcement))~~ peace officer shall not be held criminally liable for using deadly force ~~((if such officer meets the good faith standard adopted in this section))~~ in good faith, where "good faith" is an objective standard which shall consider all the facts, circumstances, and information known to the officer at the time to determine whether a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.

(5) ~~((The following good faith standard is adopted for law enforcement officer use of deadly force:~~

~~(a) The good faith standard is met only if both the objective good faith test in (b) of this subsection and the subjective good faith test in (c) of this subsection are met.~~

~~(b) The objective good faith test is met if a reasonable officer, in light of all the facts and circumstances known to the officer at the time, would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual.~~

~~(c) The subjective good faith test is met if the officer intended to use deadly force for a lawful purpose and sincerely and in good faith believed that the use of deadly force was warranted in the circumstance.~~

~~(d) Where the use of deadly force results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform the determination of whether the use of deadly force met the objective good faith test established by this section and satisfied other applicable laws and policies.~~

~~(6) For the purpose of this section, "law enforcement officer" means any law enforcement officer in the state of Washington, including but not limited to law enforcement personnel and peace officers as defined by RCW 43.101.010.~~

~~(7)) This section shall not be construed as:~~

~~(a) Affecting the permissible use of force by a person acting under the authority of RCW 9A.16.020 or 9A.16.050; or~~

~~(b) Preventing a law enforcement agency from adopting standards pertaining to its use of deadly force that are more restrictive than this section.~~

**Sec. 4.** 2019 c 1 s 9 (Initiative Measure No. 940) (uncodified) is amended to read as follows:

(1) Except where a different timeline is provided in ((this act)) chapter 1, Laws of 2019, the Washington state criminal justice training commission must adopt any rules necessary for carrying out the requirements of ((this act)) chapter 1, Laws of 2019 within one year after December 6, 2018. In carrying out all rule making under ((this act)) chapter 1, Laws of 2019, the commission shall seek input from the attorney general, law enforcement agencies, the Washington council of police and sheriffs, the Washington state fraternal order of police, the council of metropolitan police and sheriffs, the Washington state patrol troopers association, at least one association representing law enforcement who represent traditionally underrepresented communities including the black law enforcement association of Washington, tribes, and community stakeholders. The commission shall consider the use of negotiated rule making. ((The rules must require that procedures under RCW 9A.16.040(5)(d) be carried out completely independent of the agency whose officer was involved in the use of deadly force; and, when the deadly force is used on a tribal member, such procedures must

~~include consultation with the member's tribe and, where appropriate, information sharing with such tribe.)~~

(2) Where ((~~this act~~)) chapter 1, Laws of 2019 requires involvement of community stakeholders, input must be sought from organizations advocating for: Persons with disabilities; members of the lesbian, gay, bisexual, transgender, and queer community; persons of color; immigrants; noncitizens; native Americans; youth; and formerly incarcerated persons.

NEW SECTION. Sec. 5. A new section is added to chapter 10.114 RCW to read as follows:

Except as required by federal consent decree, federal settlement agreement, or federal court order, where the use of deadly force by a peace officer results in death, substantial bodily harm, or great bodily harm, an independent investigation must be completed to inform any determination of whether the use of deadly force met the good faith standard established in RCW 9A.16.040 and satisfied other applicable laws and policies. The investigation must be completely independent of the agency whose officer was involved in the use of deadly force. The criminal justice training commission must adopt rules establishing criteria to determine what qualifies as an independent investigation pursuant to this section.

NEW SECTION. Sec. 6. A new section is added to chapter 10.114 RCW to read as follows:

Whenever a law enforcement officer's application of force results in the death of a person who is an enrolled member of a federally recognized Indian tribe, the law enforcement agency must notify the governor's office of Indian affairs. Notice by the law enforcement agency to the governor's office of Indian affairs must be made within a reasonable period of time, but not more than twenty-four hours after the law enforcement agency has good reason to believe that the person was an enrolled member of a federally recognized Indian tribe. Notice provided under this section must include sufficient information for the governor's office of Indian affairs to attempt to identify the deceased person and his or her tribal affiliation. Nothing in this section requires a law enforcement agency to disclose any information that could compromise the integrity of any criminal investigation. The governor's office of Indian affairs must establish a means to receive the notice required under this section, including outside of regular business hours, and must immediately notify the tribe of which the person was enrolled.

NEW SECTION. Sec. 7. A new section is added to chapter 9A.16 RCW to read as follows:

(1) When a peace officer who is charged with a crime is found not guilty or charges are dismissed by reason of justifiable homicide or use of deadly force under RCW 9A.16.040, or by reason of self-defense, for actions taken while on duty or otherwise within the scope of his or her authority as a peace officer, the state of Washington shall reimburse the defendant for all reasonable costs, including loss of time, legal fees incurred, and other expenses involved in his or her defense. This reimbursement is not an independent cause of action.

(2) If the trier of fact makes a determination of justifiable homicide, justifiable use of deadly force, or self-defense, the judge shall determine the amount of the award.

(3) Whenever the issue of justifiable homicide, justifiable use of deadly force, or self-defense under this section is decided by a judge, or whenever charges against a peace officer are dismissed based on the merits, the judge shall consider the same questions as must be answered in the special verdict under subsection (4) of this section.

(4) Whenever the issue of justifiable homicide, justifiable use of deadly force, or self-defense under this section has been submitted to a jury, and the jury has found the defendant not guilty, the court shall instruct the jury to return a special verdict in substantially the following form:

answer  
yes or no

1. Was the defendant on duty or otherwise acting within the scope of his or her authority as a peace officer? . . . . .
2. Was the finding of not guilty based upon justifiable homicide, justifiable use of deadly force, or self-defense? . . . . .

(5) Nothing in this section precludes the legislature from using the sundry claims process to grant an award where none was granted under this section or otherwise where the charge was dismissed prior to trial, or to grant a higher award than one granted under this section.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

- (1) 2018 c 10 s 3 and 2018 c 11 s 7 (Initiative Measure No. 940);
- (2) 2018 c 10 s 4 (uncodified) and 2018 c 11 s 9 (Initiative Measure No. 940) (uncodified);
- (3) RCW 10.114.010 (Independent investigation—Adoption of rules) and 2018 c 10 s 5;
- (4) RCW 10.114.020 (Death of member of recognized Indian tribe—Notice) and 2018 c 10 s 6;
- (5) RCW 9A.16.045 (Justifiable homicide or use of deadly force by peace officer—Reimbursement of defendant for costs—Special verdict) and 2018 c 10 s 7;
- (6) 2018 c 10 s 8 (uncodified);
- (7) 2018 c 10 s 9 (uncodified);
- (8) 2018 c 10 s 10 (uncodified);
- (9) 2018 c 11 s 1 (Initiative Measure No. 940) (uncodified);
- (10) 2018 c 11 s 2 (Initiative Measure No. 940) (uncodified);
- (11) 2018 c 11 s 3 (Initiative Measure No. 940);
- (12) 2018 c 11 s 4 (Initiative Measure No. 940);
- (13) 2018 c 10 s 1 & 2018 c 11 s 5 (Initiative Measure No. 940);
- (14) 2018 c 10 s 2 & 2018 c 11 s 6 (Initiative Measure No. 940);
- (15) 2018 c 11 s 8 (Initiative Measure No. 940) (uncodified);
- (16) 2018 c 11 s 10 (Initiative Measure No. 940) (uncodified); and
- (17) 2018 c 11 s 11 (Initiative Measure No. 940) (uncodified).

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

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House January 24, 2019.

Passed by the Senate January 30, 2019.

Approved by the Governor February 4, 2019.

Filed in Office of Secretary of State February 4, 2019.

**CHAPTER 5**

[Salary Schedule]

SALARIES—STATE ELECTED OFFICIALS

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

Be it enacted by the Washington citizens' commission on salaries for elected officials of the State of Washington:

**Sec. 1.** RCW 43.03.011 and 2017 1st sp.s. c 1 s 1 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

(1) Effective September 1, (~~2016~~) 2018:

(a) Governor . . . . .	( <del>(\$173,617)</del> )	<u>\$177,107</u>
(b) Lieutenant governor . . . . .	( <del>(\$101,889)</del> )	<u>\$103,937</u>
(c) Secretary of state . . . . .	( <del>(\$121,663)</del> )	<u>\$124,108</u>
(d) Treasurer . . . . .	( <del>(\$140,438)</del> )	<u>\$144,679</u>
(e) Auditor . . . . .	( <del>(\$121,663)</del> )	<u>\$124,108</u>
(f) Attorney general . . . . .	( <del>(\$159,395)</del> )	<u>\$162,599</u>
(g) Superintendent of public instruction . . . . .	( <del>(\$134,212)</del> )	<u>\$136,910</u>
(h) Commissioner of public lands . . . . .	( <del>(\$132,858)</del> )	<u>\$138,225</u>
(i) Insurance commissioner . . . . .	( <del>(\$124,061)</del> )	<u>\$126,555</u>

(2) Effective (~~September 1, 2017~~) July 1, 2019:

(a) Governor . . . . .	( <del>(\$175,353)</del> )	<u>\$182,179</u>
(b) Lieutenant governor . . . . .	( <del>(\$102,908)</del> )	<u>\$111,180</u>
(c) Secretary of state . . . . .	( <del>(\$122,880)</del> )	<u>\$130,560</u>
(d) Treasurer . . . . .	( <del>(\$143,247)</del> )	<u>\$149,103</u>
(e) Auditor . . . . .	( <del>(\$122,880)</del> )	<u>\$128,120</u>
(f) Attorney general . . . . .	( <del>(\$160,989)</del> )	<u>\$167,381</u>
(g) Superintendent of public instruction . . . . .	( <del>(\$135,554)</del> )	<u>\$145,860</u>
(h) Commissioner of public lands . . . . .	( <del>(\$135,515)</del> )	<u>\$145,860</u>
(i) Insurance commissioner . . . . .	( <del>(\$125,302)</del> )	<u>\$132,600</u>

(3) Effective (~~September 1, 2018~~) July 1, 2020:

(a) Governor . . . . .	( <del>(\$177,107)</del> )	<u>\$187,353</u>
(b) Lieutenant governor . . . . .	( <del>(\$103,937)</del> )	<u>\$117,300</u>
(c) Secretary of state . . . . .	( <del>(\$124,108)</del> )	<u>\$134,640</u>

- (d) Treasurer . . . . . ((~~\$144,679~~)) \$153,615
- (e) Auditor . . . . . ((~~\$124,108~~)) \$132,212
- (f) Attorney general . . . . . ((~~\$162,599~~)) \$172,259
- (g) Superintendent of public instruction . . . . . ((~~\$136,910~~)) \$153,000
- (h) Commissioner of public lands . . . . . ((~~\$138,225~~)) \$153,000
- (i) Insurance commissioner . . . . . ((~~\$126,555~~)) \$137,700

(4) The lieutenant governor shall receive the fixed amount of his or her salary plus 1/260th of the difference between his or her salary and that 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.

**Sec. 2.** RCW 43.03.012 and 2017 1st sp.s. c 1 s 2 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

- (1) Effective September 1, (~~2016~~) 2018:
  - (a) Chief justice of the supreme court . . . . . ((~~\$185,661~~)) \$193,162
  - (b) Justices of the supreme court . . . . . ((~~\$183,021~~)) \$190,415
  - (c) Judges of the court of appeals . . . . . ((~~\$174,224~~)) \$181,263
  - (d) Judges of the superior court . . . . . ((~~\$165,870~~)) \$172,571
  - (e) Full-time judges of the district court . . . . . ((~~\$157,933~~)) \$164,313

- (2) Effective (~~September 1, 2017~~) July 1, 2019:
  - (a) Chief justice of the supreme court . . . . . ((~~\$189,374~~)) \$213,773
  - (b) Justices of the supreme court . . . . . ((~~\$186,681~~)) \$210,732
  - (c) Judges of the court of appeals . . . . . ((~~\$177,708~~)) \$200,603
  - (d) Judges of the superior court . . . . . ((~~\$169,187~~)) \$190,985
  - (e) Full-time judges of the district court . . . . . ((~~\$161,092~~)) \$181,846

- (3) Effective (~~September 1, 2018~~) July 1, 2020:
  - (a) Chief justice of the supreme court . . . . . ((~~\$193,162~~)) \$223,499
  - (b) Justices of the supreme court . . . . . ((~~\$190,415~~)) \$220,320
  - (c) Judges of the court of appeals . . . . . ((~~\$181,263~~)) \$209,730
  - (d) Judges of the superior court . . . . . ((~~\$172,571~~)) \$199,675
  - (e) Full-time judges of the district court . . . . . ((~~\$164,313~~)) \$190,120

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

**Sec. 3.** RCW 43.03.013 and 2017 1st sp.s. c 1 s 3 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

- (1) Effective September 1, (~~2016~~) 2018:
  - (a) Legislators . . . . . ((~~\$46,839~~)) \$48,731
  - (b) Speaker of the house . . . . . ((~~\$55,738~~)) \$57,990
  - (c) Senate majority leader . . . . . ((~~\$55,738~~)) \$57,990
  - (d) House minority leader . . . . . ((~~\$51,288~~)) \$53,360
  - (e) Senate minority leader . . . . . ((~~\$51,288~~)) \$53,360

(2) Effective (~~September 1, 2017~~) July 1, 2019:

- (a) Legislators . . . . . (~~(\$47,776)~~) \$52,766
- (b) Speaker of the house . . . . . (~~(\$56,853)~~) \$60,766
- (c) Senate majority leader . . . . . (~~(\$56,853)~~) \$60,766
- (d) House minority leader . . . . . (~~(\$52,314)~~) \$56,766
- (e) Senate minority leader . . . . . (~~(\$52,314)~~) \$56,766

(3) Effective (~~September 1, 2018~~) July 1, 2020:

- (a) Legislators . . . . . (~~(\$48,731)~~) \$56,881
- (b) Speaker of the house . . . . . (~~(\$57,990)~~) \$64,881
- (c) Senate majority leader . . . . . (~~(\$57,990)~~) \$64,881
- (d) House minority leader . . . . . (~~(\$53,360)~~) \$60,881
- (e) Senate minority leader . . . . . (~~(\$53,360)~~) \$60,881

Originally filed in Office of Secretary of State February 27, 2019.

**CHAPTER 6**

[Engrossed Substitute Senate Bill 5079]

**NATIVE AMERICANS--VOTING**

AN ACT Relating to enacting the Native American voting rights act of Washington; amending RCW 29A.08.010, 29A.08.112, 29A.08.123, 29A.08.310, and 29A.40.160; adding a new section to chapter 29A.40 RCW; and adding a new section to chapter 29A.84 RCW.

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

**Sec. 1.** RCW 29A.08.010 and 2009 c 369 s 6 are each amended to read as follows:

(1) The minimum information provided on a voter registration application that is required in order to place a voter registration applicant on the voter registration rolls includes:

- (a) Name;
- (b) Residential address;
- (c) Date of birth;
- (d) A signature attesting to the truth of the information provided on the application; and
- (e) A check or indication in the box confirming the individual is a United States citizen.

(2) The residential address provided must identify the actual physical residence of the voter in Washington, as defined in RCW 29A.04.151, with detail sufficient to allow the voter to be assigned to the proper precinct and to locate the voter to confirm his or her residence for purposes of verifying qualification to vote under Article VI, section 1 of the state Constitution. A residential address may be either a traditional address or a nontraditional address. A traditional address consists of a street number and name, optional apartment number or unit number, and city or town, as assigned by a local government, which serves to identify the parcel or building of residence and the unit if a multiunit residence. A nontraditional address consists of a narrative description of the location of the voter's residence, and may be used when a traditional address has not been assigned or affixed to the voter's residence or when a voter resides on an Indian reservation or Indian lands, pursuant to the conditions in RCW 29A.08.112.



(3) All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote.

(4) Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

**Sec. 2.** RCW 29A.08.112 and 2006 c 320 s 3 are each amended to read as follows:

(1) No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because he or she lacks a traditional residential address. A voter who lacks a traditional residential address will be registered and assigned to a precinct based on the location provided.

(2) For the purposes of this section, a voter who resides in a shelter, park, motor home, marina, unmarked home, or other identifiable location that the voter deems to be his or her residence lacks a traditional address. A voter who registers under this section must provide a valid mailing address, and must still meet the requirement in Article VI, section 1 of the state Constitution that he or she live in the area for at least thirty days before the election.

(3) A nontraditional residential address may be used when a voter resides on an Indian reservation or on Indian lands.

(4) A federally recognized tribe may designate one or more tribal government buildings to serve as a residential address or mailing address or both for voters living on an Indian reservation or on Indian lands. However, a voter may not use a tribally designated building as the voter's residential address if the building is in a different precinct than where the voter lives.

(5) A person who has a traditional residential address and does not reside on an Indian reservation or on Indian lands must use that address for voter registration purposes and is not eligible to register under this section.

**Sec. 3.** RCW 29A.08.123 and 2007 c 157 s 1 are each amended to read as follows:

(1) A person who has a valid Washington state driver's license (~~((☞))~~), state identification card, or tribal identification may submit a voter registration application electronically on the secretary of state's web site. A person who has a valid tribal identification card may submit a voter registration electronically on the secretary of state's web site if the secretary of state is able to obtain a copy of the applicant's signature from the federal government or the tribal government.

(2) The applicant must attest to the truth of the information provided on the application by affirmatively accepting the information as true.

(3) The applicant must affirmatively assent to use of his or her driver's license (~~((☞))~~), state identification card, or tribal identification card signature for voter registration purposes.

(4) A voter registration application submitted electronically is otherwise considered a registration by mail.

(5) For each electronic application, the secretary of state must obtain a digital copy of the applicant's driver's license or state identification card signature from the department of licensing or tribal identification issuing authority.

(6) The secretary of state may employ additional security measures to ensure the accuracy and integrity of voter registration applications submitted electronically.

**Sec. 4.** RCW 29A.08.310 and 2009 c 369 s 19 are each amended to read as follows:

(1) The governor, in consultation with the secretary of state, shall designate agencies to provide voter registration services in compliance with federal statutes.

(2) A federally recognized tribe may request that the governor designate one or more state facilities or state-funded facilities or programs that are located on the lands of the requesting Indian tribe or that are substantially engaged in providing services to Indian tribes, as selected by the tribe, to provide voter registration services. This provision does not alter the state's obligations under the national voter registration act.

(3) Each state agency designated shall provide voter registration services for employees and the public within each office of that agency.

~~((3))~~ (4) The secretary of state shall design and provide a standard notice informing the public of the availability of voter registration, which notice shall be posted in each state agency where such services are available.

~~((4))~~ (5) Each institution of higher education shall put in place an active prompt on its course registration web site, or similar web site that students actively and regularly use, that, if selected, will link the student to the secretary of state's voter registration web site. The prompt must ask the student if he or she wishes to register to vote.

**NEW SECTION. Sec. 5.** A new section is added to chapter 29A.40 RCW to read as follows:

(1) The county auditor must prevent overflow of each ballot drop box to allow a voter to deposit his or her ballot securely. Ballots must be removed from a ballot drop box by at least two people, with a record kept of the date and time ballots were removed, and the names of people removing them. Ballots from drop boxes must be returned to the counting center in secured transport containers. A copy of the record must be placed in the container, and one copy must be transported with the ballots to the counting center, where the seal number must be verified by the county auditor or a designated representative. All ballot drop boxes must be secured at 8:00 p.m. on the day of the primary, special election, or general election.

(2) The county auditor must establish a minimum of one ballot drop box per fifteen thousand registered voters in the county and a minimum of one ballot drop box in each city, town, and census-designated place in the county with a post office.

(3) At the request of a federally recognized Indian tribe with a reservation in the county, the county auditor must establish at least one ballot drop box on the Indian reservation on a site selected by the tribe that is accessible to the county auditor by a public road.

(4) A federally recognized Indian tribe may designate at least one building as a ballot pickup and collection location at no cost to the tribe. The designated building must be accessible to the county auditor by a public road. The county

auditor of the county in which the building is located must collect ballots from that location in compliance with the procedures in subsection (1) of this section.

**Sec. 6.** RCW 29A.40.160 and 2018 c 112 s 4 are each amended to read as follows:

(1) Each county auditor shall open a voting center each primary, special election, and general election. The voting center shall be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of, the primary, special election, or general election.

(2) Each county auditor shall register voters in person at each of the following locations in the county:

(a) At the county auditor's office;

(b) At the division of elections, if located in a separate city from the county auditor's office; and

(c) For each presidential general election, at a voting center in each city in the county with a population of one hundred thousand or greater, which does not have a voting center as required in (a) or (b) of this subsection. A voting center opened pursuant to this subsection (2) is not required to be open on the Sunday before the presidential election.

(3) Voting centers shall be located in public buildings or buildings that are leased by a public entity including, but not limited to, libraries.

(4) Each voting center, and at least one of the other locations designated by the county auditor to allow voters to register in person pursuant to RCW 29A.08.140(1)(b), must provide voter registration materials, ballots, provisional ballots, disability access voting units, sample ballots, instructions on how to properly vote the ballot, a ballot drop box, and voters' pamphlets, if a voters' pamphlet has been published.

(5) Each voting center must be accessible to persons with disabilities. Each state agency and entity of local government shall permit the use of any of its accessible facilities as voting centers when requested by a county auditor.

(6) Each voting center must provide at least one voting unit certified by the secretary of state that provides access to individuals who are blind or visually impaired, enabling them to vote with privacy and independence.

(7) No person may interfere with a voter attempting to vote in a voting center. Interfering with a voter attempting to vote is a violation of RCW 29A.84.510.

(8) Before opening the voting center, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the county auditor shall verify that no votes have been registered for any issue or office, and that the device has been sealed with a unique numbered seal at the time of final preparation and logic and accuracy testing. A log must be made of all device numbers and seal numbers.

(9) The county auditor shall require any person desiring to vote at a voting center to either sign a ballot declaration or provide identification.

(a) The signature on the declaration must be compared to the signature on the voter registration record before the ballot may be counted. If the voter registered using a mark, or can no longer sign his or her name, the election officers shall require the voter to be identified by another registered voter.

(b) The identification must be valid photo identification, such as a driver's license, state identification card, student identification card, tribal identification card, or employer identification card. A tribal identification card is not required to include a residential address or an expiration date to be considered valid under this section. Any individual who desires to vote in person but cannot provide identification shall be issued a provisional ballot, which shall be accepted if the signature on the declaration matches the signature on the voter's registration record.

(10) Provisional ballots must be accompanied by a declaration and security envelope, as required by RCW 29A.40.091, and space for the voter's name, date of birth, current and former registered address, reason for the provisional ballot, and disposition of the provisional ballot. The voter shall vote and return the provisional ballot at the voting center. The voter must be provided information on how to ascertain whether the provisional ballot was counted and, if applicable, the reason why the vote was not counted.

(11) Any voter may take printed or written material into the voting device to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove it when he or she leaves the voting center.

(12) If any voter states that he or she is unable to cast his or her votes due to a disability, the voter may designate a person of his or her choice, or two election officers, to enter the voting booth and record the votes as he or she directs.

(13) No voter is entitled to vote more than once at a primary, special election, or general election. If a voter incorrectly marks a ballot, he or she may be issued a replacement ballot.

(14) A voter who has already returned a ballot but requests to vote at a voting center shall be issued a provisional ballot. The canvassing board shall not count the provisional ballot if it finds that the voter has also voted a regular ballot in that primary, special election, or general election.

~~(15) ((The county auditor must prevent overflow of each ballot drop box to allow a voter to deposit his or her ballot securely. Ballots must be removed from a ballot drop box by at least two people, with a record kept of the date and time ballots were removed, and the names of people removing them. Ballots from drop boxes must be returned to the counting center in secured transport containers. A copy of the record must be placed in the container, and one copy must be transported with the ballots to the counting center, where the seal number must be verified by the county auditor or a designated representative. All ballot drop boxes must be secured at 8:00 p.m. on the day of the primary, special election, or general election.~~

~~(16))~~ Any voter who is inside or in line at the voting center at 8:00 p.m. on the day of the primary, special election, or general election must be allowed to vote.

~~((17))~~ (16) For each primary, special election, and general election, the county auditor may provide election services at locations in addition to the voting center. The county auditor has discretion to establish which services will be provided at the additional locations, and which days and hours the locations will be open (~~(, except that the county auditor must establish a minimum of one ballot drop box per fifteen thousand registered voters in the county and a minimum of one ballot drop box in each city, town, and census-designated place in the county with a post office)).~~

NEW SECTION. **Sec. 7.** A new section is added to chapter 29A.84 RCW to read as follows:

(1) The attorney general may bring a civil action for such declaratory or injunctive relief as is necessary to carry out the provisions of section 5 (3) and (4) of this act in the superior court of the county in which the violation is alleged to have occurred.

(2) A person or federally recognized tribal government may bring a civil action for declaratory or injunctive relief with respect to RCW 29A.08.112(3), 29.08.310(2), or section 5 (3) and (4) of this act, in the superior court of the county in which the violation is alleged to have occurred if:

(a) In the case of a violation that occurs more than one hundred twenty days before an election, that person or tribal government provides notice of the violation to the secretary of state, the violation remains, and ninety days or more have passed since the secretary of state has received the written notice;

(b) In the case of a violation that occurs one hundred twenty days or fewer before an election, that person or tribal government provides notice of the violation to the secretary of state, the violation remains and twenty days or more have passed since the secretary of state has received the written notice; or

(c) In the case of a violation that occurs thirty days or fewer before an election, without providing notice of the violation to the secretary of state.

Passed by the Senate March 8, 2019.

Passed by the House March 5, 2019.

Approved by the Governor March 14, 2019.

Filed in Office of Secretary of State March 15, 2019.

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## CHAPTER 7

[Engrossed Senate Bill 5273]

PRESIDENTIAL PRIMARY

AN ACT Relating to the presidential primary; amending RCW 29A.56.020, 29A.56.040, 29A.56.050, 29A.60.190, 29A.08.161, and 29A.04.206; adding a new section to chapter 29A.56 RCW; decodifying RCW 29A.56.010; and repealing RCW 29A.56.030.

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

**Sec. 1.** RCW 29A.56.020 and 2003 c 111 s 1402 are each amended to read as follows:

(1) On the ~~((fourth))~~ second Tuesday in ~~((May))~~ March of each year in which a president of the United States is to be nominated and elected, a presidential primary shall be held at which voters may vote for the nominee of a major political party for the office of president.

(2)(a) The secretary of state may propose an alternative date for the primary, including to coordinate a regional primary with any of the following states: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Utah, no later than the first day of ((August)) September of the year before the year in which a president is to be nominated and elected. The proposed date must not be prior to the earliest date permitted by the national rules of the major political parties.

~~((2))~~ (b) No later than the ~~((first))~~ fifteenth day of September of the year before the year in which a presidential nominee is selected, the state committee

of any major political party that will use the primary results for candidates of that party may propose an alternative date for that primary.

(3) If an alternative date is proposed under subsection ~~((1)-(3))~~ (2)(a) or (b) of this section, a committee consisting of the chair and the vice chair of the state committee of each major political party, the secretary of state, the majority leader and minority leader of the senate, and the speaker and the minority leader of the house of representatives shall meet and, if affirmed by a two-thirds vote of the members of the committee, the date of the primary shall be changed. The committee shall meet and decide on the proposed alternate date not later than the first day of October of the year before the year in which a presidential nominee is selected. The secretary of state shall convene and preside over the meeting of the committee. A committee member other than a legislator may appoint, in writing, a designee to serve on his or her behalf. A legislator who is a member of the committee may appoint, in writing, another legislator to serve on his or her behalf.

(4) If an alternate date is approved under this section, the secretary of state shall adopt rules under RCW 29A.04.620 to adjust the deadlines in ~~((RCW 29A.56.030))~~ section 2 of this act and related provisions of this chapter to correspond with the date that has been approved.

NEW SECTION. Sec. 2. A new section is added to chapter 29A.56 RCW to read as follows:

(1) Each party must determine which candidates are to be placed on the presidential primary ballot for that party. The chair of each party must submit to the secretary of state the names of the candidates to appear on the ballot for that party no later than sixty-three days before the presidential primary. Once submitted, changes must not be made to the candidates that will appear on the ballot.

(2) No later than the seventh day before the presidential nomination primary, the chair of each party must submit to the secretary of state the names of write-in candidates, if any, to be counted for that party.

**Sec. 3.** RCW 29A.56.040 and 2013 c 11 s 54 are each amended to read as follows:

(1) Except where necessary to accommodate the national or state rules of a major political party or where this chapter specifically provides otherwise, the presidential primary must be conducted in substantially the same manner as a state primary under this title.

(2) The arrangement and form of presidential primary ballots must be established by administrative rule adopted under RCW 29A.04.620, and in consultation with the major political parties. Only the candidates who have ~~((qualified under RCW 29A.56.030))~~ been submitted under section 2 of this act may appear on the ballots.

(3) Each party's ballot or portion of the ballot must list alphabetically the names of all candidates for the office of president for that party. The ballot must clearly indicate the political party of each candidate. ~~((Each ballot must include a blank space to allow the voter to write in the name of any other candidate.))~~

(4) If requested by a party chair, the ballot for that party must contain a place for a voter to indicate a preference for having delegates to the party's national convention remain uncommitted. A request under this subsection must

be submitted to the secretary of state no later than sixty-three days before the presidential primary.

(5) A presidential primary ballot with votes for more than one candidate is void, and notice to this effect, stated in clear, simple language and printed in large type, must appear on the face of each presidential primary ballot or on or about each voting device.

(6) Notice must be published in the manner required by RCW 29A.52.355.

**Sec. 4.** RCW 29A.56.050 and 2003 c 111 s 1405 are each amended to read as follows:

(1) A major political party may, under national or state party rules, base the allocation of delegates from this state to the national nominating convention of that party in whole or in part on the participation in precinct caucuses and conventions conducted under the rules of that party.

(2) If requested by a major political party, the secretary of state shall adopt rules under RCW 29A.04.620 to provide for any declaration required by that party.

(3) Voters who subscribe to a specific political party declaration under this section may only vote for a candidate of that party. Each list of candidates on ballots must be ~~((given ballots that are))~~ readily distinguishable from ~~((those given to other voters))~~ the list of candidates for any other party. Votes cast by persons making these declarations must be tabulated and reported separately from other votes cast at the primary and may be used by a major political party in its allocation of delegates under the rules of that party.

(4) For a political party that requires a specific voter declaration under this section, the secretary of state shall prescribe rules for providing, to the state and county committees of that political party, a copy of the declarations or a list of the voters who participated in the presidential nominating process of that party.

**Sec. 5.** RCW 29A.60.190 and 2015 c 146 s 4 are each amended to read as follows:

Ten days after a special election held in February or April, ten days after a presidential primary held pursuant to chapter 29A.56 RCW, fourteen days after a primary, or twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each ballot that was returned before 8:00 p.m. on the day of the special election, general election, ~~((or))~~ primary, or presidential primary, and each ballot bearing a postmark on or before the date of the special election, general election, ~~((or))~~ primary, or presidential primary and received no later than the day before certification, must be included in the canvass report.

**Sec. 6.** RCW 29A.08.161 and 2004 c 271 s 107 are each amended to read as follows:

No record may be created or maintained by a state or local governmental agency or a political organization that identifies a voter with the information marked on the voter's ballot, ~~((including the choice that a voter makes on a partisan primary ballot regarding political party affiliation))~~ except the declarations made under RCW 29A.56.050(2).

**Sec. 7.** RCW 29A.04.206 and 2005 c 2 s 3 are each amended to read as follows:

(1) The rights of Washington voters are protected by its constitution and laws and include the following fundamental rights:

~~((1))~~ (a) The right of qualified voters to vote at all elections;

~~((2))~~ (b) The right of absolute secrecy of the vote. No voter may be required to disclose political faith or adherence in order to vote;

~~((3))~~ (c) The right to cast a vote for any candidate for each office without any limitation based on party preference or affiliation, of either the voter or the candidate.

(2) Nothing in subsection (1)(b) or (c) of this section alters or supersedes RCW 29A.56.020 through 29A.56.050, which govern presidential primary elections.

NEW SECTION. Sec. 8. RCW 29A.56.010 (Intent) is decodified.

NEW SECTION. Sec. 9. RCW 29A.56.030 (Ballot—Names included) and 2011 c 349 s 19, 2006 c 344 s 15, & 2003 c 111 s 1403 are each repealed.

Passed by the Senate January 30, 2019.

Passed by the House March 4, 2019.

Approved by the Governor March 14, 2019.

Filed in Office of Secretary of State March 15, 2019.

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**CHAPTER 8**

[Substitute Senate Bill 5581]

STATE TAX LAWS--NEXUS

AN ACT Relating to improving the effectiveness and adequacy of state tax laws by clarifying and simplifying nexus provisions, by decreasing compliance and administrative burdens for taxpayers and the department of revenue, by facilitating the collection of new tax revenue resulting from the United States supreme court's decision in South Dakota v. Wayfair, Inc., by providing more consistent tax obligations for both domestic and foreign sellers, and by simplifying the expiration of sales tax sourcing mitigation payments to local governments on September 30, 2019; amending RCW 82.04.067, 82.04.067, 82.04.220, 82.08.010, 82.08.052, 82.08.0531, 82.32.045, 82.08.0293, 82.32.020, 82.32.715, 82.32.762, 34.05.328, 82.04.610, 82.14.500, 34.05.010, 82.04.066, 82.04.43391, and 82.12.040; adding new sections to chapter 82.02 RCW; repealing RCW 82.08.053, 82.13.010, 82.13.020, 82.13.030, 82.13.040, 82.13.050, 82.32.047, 82.32.733, and 82.32.763; creating new sections; providing effective dates; providing an expiration date; and declaring an emergency.

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

Part I

**Nexus**

**Sec. 101.** RCW 82.04.067 and 2017 3rd sp.s. c 28 s 302 are each amended to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if, in the current or immediately preceding calendar year, the person is:

(a) An individual and is a resident or domiciliary of this state;

(b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and the person had:

(i) More than fifty-three thousand dollars of property in this state;

(ii) More than fifty-three thousand dollars of payroll in this state;



(iii) More than two hundred sixty-seven thousand dollars of receipts from this state; or

(iv) At least twenty-five percent of the person's total property, total payroll, or total receipts in this state.

(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the current or immediately preceding calendar year.

(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.

(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property must be determined by averaging the values at the beginning and ending of the applicable calendar year; but the department may require the averaging of monthly values during the applicable calendar year if reasonably required to properly reflect the average value of the taxpayer's property.

(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:

(A) Loans secured by real property, personal property, or both real and personal property are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.

(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.

(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.

(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.

(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.

(e) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.

(3)(a) Payroll counting toward the thresholds in subsection (1)(c)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the current or immediately preceding calendar year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.

(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.

(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.

(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on June 1, 2010.

(4) Receipts counting toward the thresholds in subsection (1)(c)(iii) and (iv) of this section are:

(a) Those amounts included in the numerator of the receipts factor under RCW 82.04.462;

(b) For financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and

(c) For persons taxable under RCW 82.04.250(1), 82.04.257(1), or 82.04.270, the gross proceeds of sales taxable under those statutory provisions and sourced to this state in accordance with RCW 82.32.730.

(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(c)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.

(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.

(6)(a)(i) Except as provided in (a)(iii) of this subsection (6), subsections (1) through (5) of this section only apply with respect to the taxes on persons engaged in apportionable activities as defined in RCW 82.04.460 or making wholesale sales taxable under RCW 82.04.257(1) or 82.04.270.

(ii) Subject to the limitation in RCW 82.32.531, for purposes of the taxes imposed under this chapter on the business of making sales at retail or any other activity not included in the definition of apportionable activities in RCW 82.04.460, other than the business of making wholesale sales taxed under RCW 82.04.257(1) or 82.04.270, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state during the current or immediately preceding calendar year, which need only be demonstrably more than a slightest presence.

(iii) For purposes of the taxes imposed under this chapter on the business of making sales at retail taxable under RCW 82.04.250(1) or 82.04.257(1), a person is also deemed to have a substantial nexus with this state if the person's receipts from this state, pursuant to subsection (4)(c) of this section, meet either criterion in subsection (1)(c)(iii) or (iv) of this section, as adjusted under subsection (5) of this section.

(b) For purposes of this subsection, a person is physically present in this state if the person has property or employees in this state.

(c)((+)) A person is also physically present in this state for the purposes of this subsection if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

~~((ii) A remote seller as defined in RCW 82.08.052 is presumed to be engaged in activities in this state that are significantly associated with the remote seller's ability to establish or maintain a market for its products in this state if the remote seller is presumed to have a substantial nexus with this state under RCW 82.08.052. The presumption in this subsection (6)(c)(ii) may be rebutted as provided in RCW 82.08.052. To the extent that the presumption in RCW 82.08.052 is no longer operative pursuant to RCW 82.32.762, the presumption in this subsection (6)(c)(ii) is no longer operative.))~~

**Sec. 102.** RCW 82.04.067 and 2019 c . . . s 101 (section 101 of this act) are each amended to read as follows:

(1) A person engaging in business is deemed to have substantial nexus with this state if, in the current or immediately preceding calendar year, the person is:

(a) An individual and is a resident or domiciliary of this state;

(b) A business entity and is organized or commercially domiciled in this state; or

(c) A nonresident individual or a business entity that is organized or commercially domiciled outside this state, and the person had:

(i) ~~(More than fifty three thousand dollars of property in this state;~~

(ii) ~~More than fifty three thousand dollars of payroll in this state;~~

(iii)) More than ~~((two hundred sixty seven))~~ one hundred thousand dollars of cumulative gross receipts from this state; or

~~((iv) At least twenty five percent of the person's total property, total payroll, or total receipts in this state.~~

~~(2)(a) Property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section is the average value of the taxpayer's property, including intangible property, owned or rented and used in this state during the current or immediately preceding calendar year.~~

~~(b)(i) Property owned by the taxpayer, other than loans and credit card receivables owned by the taxpayer, is valued at its original cost basis. Loans and credit card receivables owned by the taxpayer are valued at their outstanding principal balance, without regard to any reserve for bad debts. However, if a loan or credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the loan or credit card receivable charged off is deducted from the outstanding principal balance.~~

~~(ii) Property rented by the taxpayer is valued at eight times the net annual rental rate. For purposes of this subsection, "net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.~~

~~(c) The average value of property must be determined by averaging the values at the beginning and ending of the applicable calendar year; but the department may require the averaging of monthly values during the applicable calendar year if reasonably required to properly reflect the average value of the taxpayer's property.~~

~~(d)(i) For purposes of this subsection (2), loans and credit card receivables are deemed owned and used in this state as follows:~~

~~(A) Loans secured by real property, personal property, or both real and personal property are deemed owned and used in the state if the real property or personal property securing the loan is located within this state. If the property securing the loan is located both within this state and one or more other states, the loan is deemed owned and used in this state if more than fifty percent of the fair market value of the real or personal property is located within this state. If more than fifty percent of the fair market value of the real or personal property is not located within any one state, then the loan is deemed owned and used in this state if the borrower is located in this state. The determination of whether the real or personal property securing a loan is located within this state must be made, as of the time the original agreement was made, and any and all subsequent substitutions of collateral must be disregarded.~~

~~(B) Loans not secured by real or personal property are deemed owned and used in this state if the borrower is located in this state.~~

~~(C) Credit card receivables are deemed owned and used in this state if the billing address of the cardholder is in this state.~~

~~(ii)(A) Except as otherwise provided in (d)(ii)(B) of this subsection (2), the definitions in the multistate tax commission's recommended formula for the apportionment and allocation of net income of financial institutions as existing on June 1, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, apply to this section.~~

~~(B) "Credit card" means a card or device existing for the purpose of obtaining money, property, labor, or services on credit.~~

~~(c) Notwithstanding anything else to the contrary in this subsection, property counting toward the thresholds in subsection (1)(c)(i) and (iv) of this section does not include a person's ownership of, or rights in, computer software as defined in RCW 82.04.215, including computer software used in providing a~~

~~digital automated service; master copies of software; and digital goods and digital codes residing on servers located in this state.~~

~~(3)(a) Payroll counting toward the thresholds in subsection (1)(e)(ii) and (iv) of this section is the total amount paid by the taxpayer for compensation in this state during the current or immediately preceding calendar year plus nonemployee compensation paid to representative third parties in this state. Nonemployee compensation paid to representative third parties includes the gross amount paid to nonemployees who represent the taxpayer in interactions with the taxpayer's clients and includes sales commissions.~~

~~(b) Employee compensation is paid in this state if the compensation is properly reportable to this state for unemployment compensation tax purposes, regardless of whether the compensation was actually reported to this state.~~

~~(c) Nonemployee compensation is paid in this state if the service performed by the representative third party occurs entirely or primarily within this state.~~

~~(d) For purposes of this subsection, "compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees or nonemployees and defined as gross income under 26 U.S.C. Sec. 61 of the federal internal revenue code of 1986, as existing on June 1, 2010.~~

~~(4) Receipts counting toward the thresholds in subsection (1)(e)(iii) and (iv) of this section are:~~

~~(a) Those amounts included in the numerator of the receipts factor under RCW 82.04.462;~~

~~(b) For financial institutions, those amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and~~

~~(c) For persons taxable under RCW 82.04.250(1), 82.04.257(1), or 82.04.270, the gross proceeds of sales taxable under those statutory provisions and sourced to this state in accordance with RCW 82.32.730.~~

~~(5)(a) Each December, the department must review the cumulative percentage change in the consumer price index. The department must adjust the thresholds in subsection (1)(e)(i) through (iii) of this section if the consumer price index has changed by five percent or more since the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. For purposes of determining the cumulative percentage change in the consumer price index, the department must compare the consumer price index available as of December 1st of the current year with the consumer price index as of the later of June 1, 2010, or the date that the thresholds were last adjusted under this subsection. The thresholds must be adjusted to reflect that cumulative percentage change in the consumer price index. The adjusted thresholds must be rounded to the nearest one thousand dollars. Any adjustment will apply to tax periods that begin after the adjustment is made.~~

~~(b) As used in this subsection, "consumer price index" means the consumer price index for all urban consumers (CPI-U) available from the bureau of labor statistics of the United States department of labor.~~

~~(6)(a)(i) Except as provided in (a)(iii) of this subsection (6), subsections (1) through (5) of this section only apply with respect to the taxes on persons engaged in apportionable activities as defined in RCW 82.04.460 or making wholesale sales taxable under RCW 82.04.257(1) or 82.04.270.~~

~~(ii) Subject to the limitation in RCW 82.32.531, for purposes of the taxes imposed under this chapter on the business of making sales at retail or any other activity not included in the definition of apportionable activities in RCW 82.04.460, other than the business of making wholesale sales taxed under RCW 82.04.257(1) or 82.04.270, a person is deemed to have a substantial nexus with this state if the person has a physical presence in this state during the current or immediately preceding calendar year, which need only be demonstrably more than a slightest presence.~~

~~(iii) For purposes of the taxes imposed under this chapter on the business of making sales at retail taxable under RCW 82.04.250(1) or 82.04.257(1), a person is also deemed to have a substantial nexus with this state if the person's receipts from this state, pursuant to subsection (4)(c) of this section, meet either criterion in subsection (1)(c)(iii) or (iv) of this section, as adjusted under subsection (5) of this section.~~

~~(b)) (ii) Subject to the limitation in RCW 82.32.531, physical presence in this state, which need only be demonstrably more than a slightest presence.~~

(2)(a) Cumulative gross receipts counting toward the threshold in subsection (1)(c)(i) of this section include all of a person's gross income of the business attributed to this state. For purposes of this subsection, gross income of the business is attributed to this state as follows:

(i) For apportionable income, all amounts included in the numerator of the receipts factor under RCW 82.04.462 and, in the case of financial institutions, all amounts included in the numerator of the receipts factor under the rule adopted by the department as authorized in RCW 82.04.460(2); and

(ii) For all other income, the gross income of the business allocated to this state in accordance with the sourcing provisions of RCW 82.32.730.

(b) For a marketplace facilitator, cumulative gross receipts counting toward the threshold in subsection (1)(c)(i) of this section include, in addition to the gross proceeds of its own sales, the cumulative gross proceeds from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that do not have a substantial nexus with this state under the provisions of this section.

(3)(a) For purposes of ~~((this))~~ subsection (1)(c)(ii) of this section, a person is physically present in this state if the person has property or employees in this state.

~~((e))~~ (b) A person is also physically present in this state for the purposes of ~~((this))~~ subsection (1)(c)(ii) of this section if the person, either directly or through an agent or other representative, engages in activities in this state that are significantly associated with the person's ability to establish or maintain a market for its products in this state.

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

(a) "Apportionable income" has the same meaning as provided in RCW 82.04.460.

(b) "Marketplace," "marketplace facilitator," and "marketplace seller" have the same meaning as provided in RCW 82.08.010.

(c) "Product" has the same meaning as provided in RCW 82.32.023.

**Sec. 103.** RCW 82.04.220 and 2017 3rd sp.s. c 28 s 303 are each amended to read as follows:

(1) There is levied and collected from every person that has a substantial nexus with this state, as provided in RCW 82.04.067, a tax for the act or privilege of engaging in business activities. The tax is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.

(2)~~((a))~~ A person who ~~((has))~~ establishes a substantial nexus with this state in the current calendar year under the provisions of RCW 82.04.067~~((based solely on the person's property, payroll, or receipts in this state during the current calendar year,))~~ is subject to the tax imposed under this chapter for the current calendar year only on business activity occurring on and after the date that the person established a substantial nexus with this state in the current calendar year. This subsection does not apply to a person who also had a substantial nexus with this state during the immediately preceding calendar year under RCW 82.04.067, and such person is taxable under this chapter for the current calendar year in its entirety.

~~((b) This subsection (2) does not apply to any person who also had a substantial nexus with this state during:~~

- ~~(i) The immediately preceding calendar year under RCW 82.04.067; or~~
- ~~(ii) The current calendar year under RCW 82.04.067 (1)(a) or (b) or (6)(a)(ii) or (c).)~~

NEW SECTION. Sec. 104. A new section is added to chapter 82.02 RCW to read as follows:

A person that has a substantial nexus under RCW 82.04.067 is obligated to pay all applicable taxes and fees imposed on that person's business activity, including any taxes and fees enacted after December 31, 2018. For purposes of this section, "taxes and fees" means any monetary exaction, regardless of its label, that is imposed directly on a person engaging in business and that the department is responsible for collecting.

**Sec. 105.** RCW 82.08.010 and 2014 c 140 s 11 are each amended to read as follows:

For the purposes of this chapter:

(1)(a)(i) "Selling price" includes "sales price." "Sales price" means the total amount of consideration, except separately stated trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a "retail sale" under RCW 82.04.050 are sold, leased, or rented, valued in money, whether received in money or otherwise. No deduction from the total amount of consideration is allowed for the following: (A) The seller's cost of the property sold; (B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (D) delivery charges; and (E) installation charges.

(ii) When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar

products of like quality and character under such rules as the department may prescribe;

(b) "Selling price" or "sales price" does not include: Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale; interest, financing, and carrying charges from credit extended on the sale of tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a retail sale in RCW 82.04.050, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) "Selling price" or "sales price" includes consideration received by the seller from a third party if:

(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the criteria in this subsection (1)(c)(iv) is met:

(A) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount, however a "preferred customer" card that is available to any patron does not constitute membership in such a group; or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser;

(2)(a)(i) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal, except (~~"seller" does not mean~~) as otherwise provided in this subsection (2).

(ii) "Seller" includes marketplace facilitators, whether making sales in their own right or facilitating sales on behalf of marketplace sellers.

(b)(i) "Seller" does not include:

~~((+))~~ (A) The state and its departments and institutions when making sales to the state and its departments and institutions; or

~~((+))~~ (B) A professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale at retail that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the seller and is responsible for collecting and remitting the tax imposed by this chapter.



~~((b))~~ (ii) For the purposes of ~~((a)-of)~~ this subsection (2)(b), the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(3) "Buyer," "purchaser," and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing;

(5) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address;

(6) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state," "within this state," "marijuana," "useable marijuana," and "marijuana-infused products" applies equally to the provisions of this chapter;

(7) For the purposes of the taxes imposed under this chapter and under chapter 82.12 RCW, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The definitions in RCW 82.04.192 apply to this chapter;

(10) For the purposes of the taxes imposed under this chapter and chapter 82.12 RCW, whenever the terms "property" or "personal property" are used, those terms must be construed to include digital goods and digital codes unless:

(a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property;

(b) It is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or

(c) To construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences; and

(11) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(12) The terms "agriculture," "farming," "horticulture," "horticultural," and "horticultural product" may not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products unless the applicable term is explicitly defined to include marijuana, useable marijuana, or marijuana-infused products.

(13)(a) "Affiliated person" means a person that, with respect to another person:

(i) Has an ownership interest of more than five percent, whether direct or indirect, in the other person; or

(ii) Is related to the other person because a third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than five percent, whether direct or indirect, in the related persons.

(b) For purposes of this subsection (13):

(i) "Ownership interest" means the possession of equity in the capital, the stock, or the profits of the other person; and

(ii) An indirect ownership interest in a person is an ownership interest in an entity that has an ownership interest in the person or in an entity that has an indirect ownership interest in the person.

(14) "Marketplace" means a physical or electronic place, including, but not limited to, a store, a booth, an internet web site, a catalog or a dedicated sales software application, where tangible personal property, digital codes and digital products, or services are offered for sale.

(15)(a) "Marketplace facilitator" means a person that:

(i) Contracts with sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products through a marketplace owned or operated by the person;

(ii) Engages directly or indirectly, through one or more affiliated persons, in transmitting or otherwise communicating the offer or acceptance between the buyer and seller. For purposes of this subsection, mere advertising does not constitute transmitting or otherwise communicating the offer or acceptance between the buyer and seller; and

(iii) Engages directly or indirectly, through one or more affiliated persons, in any of the following activities with respect to the seller's products:

(A) Payment processing services;

(B) Fulfillment or storage services;

(C) Listing products for sale;

(D) Setting prices;

(E) Branding sales as those of the marketplace facilitator;

(F) Taking orders; or

(G) Providing customer service or accepting or assisting with returns or exchanges.

(b)(i) "Marketplace facilitator" does not include:

(A) A person who provides internet advertising services, including listing products for sale, so long as the person does not also engage in the activity described in (a)(ii) of this subsection (15) in addition to any of the activities described in (a)(iii) of this subsection (15); or

(B) A person with respect to the provision of travel agency services or the operation of a marketplace or that portion of a marketplace that enables

consumers to purchase transient lodging accommodations in a hotel or other commercial transient lodging facility.

(ii) The exclusion in this subsection (15)(b) does not apply to a marketplace or that portion of a marketplace that facilitates the retail sale of transient lodging accommodations in homes, apartments, cabins, or other residential dwelling units.

(iii) For purposes of this subsection (15)(b), the following definitions apply:

(A) "Hotel" has the same meaning as in RCW 19.48.010.

(B) "Travel agency services" means arranging or booking, for a commission, fee or other consideration, vacation or travel packages, rental car or other travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus, or other medium of transportation, or hotel or other lodging accommodations.

(16) "Marketplace seller" means a seller that makes retail sales through any marketplace operated by a marketplace facilitator, regardless of whether the seller is required to be registered with the department under RCW 82.32.030.

(17) "Remote seller" means any seller, including a marketplace facilitator, who does not have a physical presence in this state and makes retail sales to purchasers or facilitates retail sales on behalf of marketplace sellers.

**Sec. 106.** RCW 82.08.052 and 2015 3rd sp.s. c 5 s 202 are each amended to read as follows:

~~(1) ((For purposes of this chapter, a remote seller is presumed to have a substantial nexus with this state and is obligated to collect retail sales tax if the remote seller enters into an agreement with a resident of this state under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an internet web site or otherwise, to the remote seller, if the cumulative gross receipts from sales by the remote seller to customers in this state who are referred to the remote seller by all residents with this type of an agreement with the remote seller exceed ten thousand dollars during the preceding calendar year. This presumption may be rebutted by proof that the resident with whom the remote seller has an agreement did not engage in any solicitation in this state on behalf of the remote seller that would satisfy the nexus requirement of the United States Constitution during the calendar year in question. Proof may be shown by (a) establishing, in a manner acceptable to the department, that (i) each in-state person with whom the remote seller has an agreement is prohibited from engaging in any solicitation activities in this state that refer potential customers to the remote seller, and (ii) such in-state person or persons have complied with that prohibition; or (b) any other means as may be approved by the department.~~

~~(2) "Remote seller" means a seller that makes retail sales in this state through one or more agreements described in subsection (1) of this section, and the seller's other physical presence in this state, if any, is not sufficient to establish a retail sales or use tax collection obligation under the commerce clause of the United States Constitution.~~

~~(3) Nothing in this section may be construed to affect in any way RCW 82.04.424, 82.08.050(11), or 82.12.040(5).~~

(4)) (a) From October 1, 2018, through December 31, 2019, a seller is obligated to collect and remit to the department the taxes imposed under this chapter, except as otherwise provided in RCW 82.08.0531(2) and this

subsection, if the seller, in the current or immediately preceding calendar year, had:

(i) More than one hundred thousand dollars of cumulative gross receipts from this state;

(ii) Subject to the limitation in (c)(ii) of this subsection (1), two hundred or more separate transactions for the delivery of products into this state; or

(iii) Subject to the limitation in RCW 82.32.531, physical presence in this state under RCW 82.04.067.

(b) Cumulative gross receipts counting toward the threshold in (a)(i) of this subsection include a person's gross income of the business from all retail sales made by the seller and sourced to this state under RCW 82.32.730.

(c)(i) Transactions counting toward the threshold in (a)(ii) of this subsection include all retail sales transactions made by the seller and sourced to this state under RCW 82.32.730.

(ii) From the effective date of this section, a seller is relieved of the obligation to collect the taxes imposed under this chapter and remit those taxes to the department if that obligation arose solely based on the threshold in (a)(ii) of this subsection.

(iii) For purposes of the threshold in (a)(ii) of this subsection "transaction" means an agreement to furnish a product or products for consideration, and includes a sale as defined in RCW 82.04.040.

(iv) The term "transaction" does not include an agreement if the agreement is canceled or rescinded before any of the products are delivered to the buyer or other recipient designated by the buyer, the seller retains no part of the consideration from the buyer, and the seller did not collect from the buyer any tax imposed or authorized under this title.

(v) With regard to agreements requiring multiple payments by the consumer, such as a lease, rental, or installment sale, such agreements count as a single transaction for purposes of this subsection, regardless of the number of payments required under the agreement. However, any modification of such an agreement that provides for additional payments is counted as an additional transaction.

(d)(i) Subject to (b) and (c) of this subsection (1), for a marketplace facilitator, receipts and transactions counting toward the thresholds in (a)(i) and (ii) of this subsection include, in addition to the cumulative gross receipts and separate transactions of its own sales, the cumulative gross receipts and separate transactions from sales by all marketplace sellers through the marketplace facilitator's marketplace, including marketplace sellers that are not obligated to collect the taxes under this chapter pursuant to the provisions of this section.

(ii) For a purchase made by one consumer through a marketplace facilitator, where the purchase involves sales by multiple marketplace sellers, the purchase is deemed to be one transaction for the marketplace facilitator and one transaction apiece for each marketplace seller.

(2) Beginning January 1, 2020, a seller with a substantial nexus with this state under RCW 82.04.067 is obligated to collect and remit to the department the taxes imposed under this chapter.

(3)(a) For purposes of this section, the following definitions apply:

(i) "Apportionable income" has the same meaning as provided in RCW 82.04.460.

(ii) "Gross income of the business" has the same meaning as provided in RCW 82.04.080.

(iii) "Product" has the same meaning as provided in RCW 82.32.023.

(b) The definitions in RCW 82.13.010 apply to this section through June 30, 2019.

(4)(a) A seller whose obligation to collect the taxes imposed under this chapter arises after October 1, 2018, must begin collecting taxes imposed under this chapter as follows:

(i) For a remote seller, on the first day of the first calendar month that is at least thirty days from the date that the remote seller becomes required under subsection (1) or (2) of this section to collect the taxes imposed under this chapter.

(ii) For a seller that has a physical presence in this state, immediately upon establishing a tax collection obligation under subsection (1)(a)(iii) or (2) of this section.

(b) Nothing in this subsection (4) affects the ongoing tax collection obligation of any seller that was required, or elected, to collect the taxes imposed under this chapter on or before October 1, 2018.

(5) This section is subject to RCW 82.32.762.

NEW SECTION. Sec. 107. A new section is added to chapter 82.02 RCW to read as follows:

A seller that is obligated to collect the taxes imposed under chapter 82.08 RCW must also collect all other applicable taxes and fees in effect as of the effective date of this section, or enacted after December 31, 2018. For purposes of this section, "taxes and fees" means any monetary exaction, regardless of its label, imposed on a buyer and that the seller is required to collect and pay over to the department.

## Part II

### Marketplace Facilitators

**Sec. 201.** RCW 82.08.0531 and 2017 3rd sp.s. c 28 s 203 are each amended to read as follows:

(1)((~~a~~)) For purposes of this chapter and chapters 82.04 and 82.12 RCW, a marketplace facilitator (~~(or referrer)~~) is deemed to be an agent of any marketplace seller making retail sales through the marketplace facilitator's (~~(physical or electronic)~~) marketplace (~~(or directly resulting from a referral of the purchaser by the referrer)~~).

((~~b~~)) (2) Beginning October 1, 2018, marketplace facilitators subject to a tax collection obligation under RCW 82.08.052 (1) or (2) must collect and remit to the department retail sales tax on all taxable retail sales made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller is subject to a tax collection obligation under RCW 82.08.052 (1) or (2). Beginning January 1, 2020, the collection obligation of a marketplace facilitator under this chapter also applies to any other taxes and fees, as defined under section 107 of this act, that are imposed on a retail sale made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller has a tax collection obligation under RCW 82.08.052 (1) or (2).

(3) In addition to other applicable recordkeeping requirements, the department may require a marketplace facilitator (~~(or referrer)~~) to provide or make available to the department any information the department determines is reasonably necessary to enforce the provisions of this chapter and chapter 82.13 RCW. Such information may include documentation of sales made by marketplace sellers through the marketplace facilitator's (~~(physical or electronic)~~) marketplace (~~(or directly resulting from a referral by the referrer)~~). The department may prescribe by rule the form and manner for providing this information.

~~((2))~~ (4)(a) Beginning July 1, 2019, to ensure that marketplace sellers have the necessary information to timely and accurately file their excise tax returns with the department pursuant to RCW 82.32.045, a marketplace facilitator must, at a minimum, provide each of its marketplace sellers with access, through a written report or other means, to gross sales information for all Washington sales made as an agent of the marketplace seller under this section during the immediately preceding month. Marketplace facilitators must provide such access within fifteen calendar days following the end of each month.

(b) If a marketplace seller does not receive the gross sales information for all Washington sales through a marketplace facilitator, as required under (a) of this subsection (4), the marketplace seller may determine its business and occupation tax liability under chapter 82.04 RCW based on a reasonable method of estimating Washington sales as may be required or approved by the department.

(c) For purposes of this subsection, "Washington sales" means any sale sourced to this state under RCW 82.32.730, regardless of whether the sale is a retail sale.

(5) If a marketplace facilitator (~~(or referrer)~~) has fully complied with the requirements of subsection (4)(a) of this section, the marketplace facilitator is relieved of liability under this chapter and chapter 82.12 RCW for failure to collect the correct amount of tax to the extent that the marketplace facilitator (~~(or referrer)~~) can show to the department's satisfaction that the error was due to incorrect information given to the marketplace facilitator (~~(or referrer)~~) by the marketplace seller, unless the marketplace facilitator (~~(or referrer)~~) and marketplace seller are affiliated persons. Where the marketplace facilitator (~~(or referrer)~~) is relieved of liability under this subsection (~~((2))~~) (5), the marketplace seller is solely liable for the amount of uncollected tax due.

~~((3))~~ (6)(a) Subject to the limits in (b) and (c) of this subsection (~~((3))~~) (6), a marketplace facilitator (~~(or referrer)~~) that has fully complied with the requirements of subsection (4)(a) of this section is relieved of liability under this chapter and chapter 82.12 RCW for the failure to collect tax on taxable retail sales to the extent that the marketplace facilitator (~~(or referrer)~~) can show to the department's satisfaction that:

(i) The taxable retail sale was made through the marketplace facilitator's marketplace (~~(or directly resulting from a referral of the purchaser by the referrer)~~);

(ii) The taxable retail sale was made solely as the agent of a marketplace seller, and the marketplace facilitator (~~(or referrer)~~) and marketplace seller are not affiliated persons; and

(iii) The failure to collect sales tax was not due to an error in sourcing the sale under RCW 82.32.730.

(b) Liability relief for a marketplace facilitator under (a) of this subsection ~~((3))~~ (6) for a calendar year is limited as follows:

(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales facilitated by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(ii) For calendar year ~~((s))~~ 2019 ~~(, 2020, 2021, 2022, and 2023)~~, the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

~~(iii) ((Beginning in calendar year 2024, the liability relief may not exceed three percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.~~

(c) Liability relief for a referrer under (a) of this subsection ~~(3)~~ for a calendar year is limited as follows:

~~(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer and sourced to this state under RCW 82.32.730 during the same calendar year.~~

~~(ii) For calendar years 2019, 2020, 2021, 2022, and 2023, the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer and sourced to this state under RCW 82.32.730 during the same calendar year.~~

~~(iii) Beginning in calendar year 2024, the liability relief may not exceed three percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer and sourced to this state under RCW 82.32.730 during the same calendar year.)~~ The provisions of this subsection (6) do not apply to retail sales made after December 31, 2019.

(c) For purposes of this subsection (6), a retail sale is deemed to be facilitated by a marketplace facilitator when the marketplace facilitator either:

(i) Accepts the order for the product;

(ii) Communicates to the marketplace seller the buyer's offer to purchase the product;

(iii) Accepts the buyer's payment for the product; or

(iv) Delivers or arranges for delivery of the product.

(d) Where the marketplace facilitator or referrer is relieved of liability under this subsection ~~((3))~~ (6), the marketplace seller is also relieved of liability for the amount of uncollected tax due, subject to the limitations in subsection ~~((4))~~ (7) of this section.

(e) The department may by rule determine the manner in which a taxpayer may claim the liability relief provided under this subsection.

~~((4)) (7)~~ Except as otherwise provided in this section, a marketplace seller obligated ~~((or electing))~~ to collect the taxes imposed under this chapter and chapter 82.12 RCW is not required to collect such taxes on all taxable retail sales through a marketplace operated by a marketplace facilitator ~~((or directly resulting from a referral of the purchaser to the marketplace seller by the referrer))~~ if the marketplace seller has obtained documentation from the marketplace facilitator ~~((or referrer))~~ indicating that the marketplace facilitator ~~((or referrer))~~ is registered with the department and will collect all applicable taxes due under this chapter and chapter 82.12 RCW on all taxable retail sales made on behalf of the marketplace seller through the marketplace operated by the marketplace facilitator ~~((or taxable retail sales directly resulting from a referral of the purchaser to the marketplace seller by the referrer))~~. The documentation required by this subsection ~~((4)) (7)~~ must be provided in a form and manner prescribed by or acceptable to the department. This subsection ~~((4)) (7)~~ does not relieve a marketplace seller from liability for uncollected taxes due under this chapter or chapter 82.12 RCW resulting from a marketplace facilitator's ~~((or referrer's))~~ failure to collect the proper amount of tax due when the error was due to incorrect information given to the marketplace facilitator ~~((or referrer))~~ by the marketplace seller.

~~((5) Except as otherwise provided in this section, a marketplace seller that is also a remote seller subject to RCW 82.08.053(1) is relieved of its obligation to collect sales or use taxes imposed under RCW 82.08.053 with respect to all taxable retail sales through a marketplace operated by a marketplace facilitator that provides the marketplace seller with written confirmation that the marketplace facilitator has elected to comply with the notice and reporting requirements of RCW 82.13.020 in lieu of collecting sales and use taxes.~~

~~(6) Notwithstanding subsections (4) and (5) of this section, a marketplace seller is not relieved of the obligation to collect taxes imposed under this chapter and chapter 82.12 RCW or comply with RCW 82.08.053 with respect to retail sales of digital products and digital codes, other than (a) specified digital products and digital games and (b) digital codes used to redeem specified digital products and digital games, until January 1, 2020.~~

~~(7)) (8)~~ No class action may be brought against a marketplace facilitator ~~((or referrer))~~ in any court of this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator ~~((or referrer))~~, regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection affects a purchaser's right to seek a refund from the department as provided under chapter 82.32 RCW.

~~((8)) (9)~~ Nothing in this section affects the obligation of any purchaser to remit sales or use tax and any other applicable taxes and fees, as to any applicable taxable transaction in which the seller or the seller's agent does not collect and remit sales tax.

~~((9) This section is subject to the provisions of RCW 82.32.733.~~

~~(10) The definitions in RCW 82.13.010 apply to this section.)~~

### Part III

#### Repealing and Modifying Conflicting and Unnecessary Laws

NEW SECTION. Sec. 301. The following acts or parts of acts are each repealed:



(1) RCW 82.08.053 (Remote sellers, referrers, and marketplace facilitators—Tax collection and remittance) and 2017 3rd sp.s. c 28 s 202;

(2) RCW 82.13.010 (Definitions) and 2017 3rd sp.s. c 28 s 204;

(3) RCW 82.13.020 (Notice and reporting requirements) and 2017 3rd sp.s. c 28 s 205;

(4) RCW 82.13.030 (Penalties) and 2017 3rd sp.s. c 28 s 206;

(5) RCW 82.13.040 (Administration of chapter) and 2017 3rd sp.s. c 28 s 207;

(6) RCW 82.13.050 (Liability, administration, and enforcement under chapters 82.08 and 82.12 RCW) and 2017 3rd sp.s. c 28 s 208;

(7) RCW 82.32.047 (Taxes—Payable by consumer directly to department—When due) and 2017 3rd sp.s. c 28 s 209;

(8) RCW 82.32.733 (Changes in federal law or the streamlined sales and use tax agreement after July 7, 2017—Conflicts) and 2017 3rd sp.s. c 28 s 214; and

(9) RCW 82.32.763 (Remote seller, referrer, and marketplace facilitator—Recovery procedures—Liability) and 2017 3rd sp.s. c 28 s 210.

**Sec. 302.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each amended to read as follows:

(1) Except as otherwise provided in this chapter and subsection (5) of this section, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than:

(i) Twenty-eight thousand dollars per year; or

(ii) Forty-six thousand six hundred sixty-seven dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

(5)(a) Taxes imposed under chapter 82.08 or 82.12 RCW on taxable events that occur beginning January 1, 2019, through June 30, 2019, and payable by a

consumer directly to the department are due, on returns prescribed by the department, by July 25, 2019.

(b) This subsection (5) does not apply to the reporting and payment of taxes imposed under chapters 82.08 and 82.12 RCW:

(i) On the retail sale or use of motor vehicles, vessels, or aircraft; or

(ii) By consumers who are engaged in business, unless the department has relieved the consumer of the requirement to file returns pursuant to subsection (4) of this section.

#### Part IV

### Ensuring Continuing Compliance with the Streamlined Sales & Use Tax Agreement and Addressing Potential Federal Preemption

**Sec. 401.** RCW 82.08.0293 and 2017 3rd sp.s. c 28 s 101 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume;

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco; and

(c) Marijuana, useable marijuana, or marijuana-infused products.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, bottled water, or dietary supplements. The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Bottled water" means water that is placed in a safety sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(b) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as

conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(c)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) Food is "sold with eating utensils provided by the seller" if:

(A) The seller's customary practice for that item is to physically deliver or hand a utensil to the customer with the food or food ingredient as part of the sales transaction. If the food or food ingredient is prepackaged with a utensil, the seller is considered to have physically delivered a utensil to the customer unless the food and utensil are prepackaged together by a food manufacturer classified under sector 311 of the North American industry classification system (NAICS);

(B) A plate, glass, cup, or bowl is necessary to receive the food or food ingredient, and the seller makes those utensils available to its customers; or

(C)(I) The seller makes utensils available to its customers, and the seller has more than seventy-five percent prepared food sales. For purposes of this subsection (2)(c)(ii)(C), a seller has more than seventy-five percent prepared food sales if the seller's gross retail sales of prepared food under (c)(i)(A), (c)(i)(C), and (c)(ii)(B) of this subsection equal more than seventy-five percent of the seller's gross retail sales of all food and food ingredients, including prepared food, soft drinks, and dietary supplements.

(II) However, even if a seller has more than seventy-five percent prepared food sales, four servings or more of food or food ingredients packaged for sale as a single item and sold for a single price are not "sold with utensils provided by the seller" unless the seller's customary practice for the package is to physically hand or otherwise deliver a utensil to the customer as part of the sales transaction. Whenever available, the number of servings included in a package of food or food ingredients must be determined based on the manufacturer's product label. If no label is available, the seller must reasonably determine the number of servings.

(III) The seller must determine a single prepared food sales percentage annually for all the seller's establishments in the state based on the prior year of sales. The seller may elect to determine its prepared food sales percentage based either on the prior calendar year or on the prior fiscal year. A seller may not change its elected method for determining its prepared food percentage without the written consent of the department. The seller must determine its annual

prepared food sales percentage as soon as possible after accounting records are available, but in no event later than ninety days after the beginning of the seller's calendar or fiscal year. A seller may make a good faith estimate of its first annual prepared food sales percentage if the seller's records for the prior year are not sufficient to allow the seller to calculate the prepared food sales percentage. The seller must adjust its good faith estimate prospectively if its relative sales of prepared foods in the first ninety days of operation materially depart from the seller's estimate.

(iii) "Prepared food" does not include the following (~~food or food ingredients, if the food or food ingredients are~~) items, if sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary (~~North American industry classification system~~) NAICS(+) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system—United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(d) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the Older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a

vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks, bottled water, and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

**Sec. 402.** RCW 82.32.020 and 2015 c 86 s 309 are each amended to read as follows:

For the purposes of this chapter:

(1) The meaning attributed in chapters 82.01 through 82.27 RCW to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "gross income," "taxpayer," "retail sale," "seller," "buyer," "purchaser," "extended warranty," and "value of products" apply equally to the provisions of this chapter.

(2) Unless the context clearly requires otherwise, the term "tax" includes any monetary exaction, regardless of its label, that the department is responsible for collecting, but not including interest, penalties, the surcharge imposed in RCW 40.14.027, or fees incurred by the department and recouped from taxpayers.

(3) Whenever "property" or "personal property" is used, those terms must be construed to include digital goods and digital codes unless: (a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property; (b) it is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or (c) to construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences.

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

(a) "Agreement" means the streamlined sales and use tax agreement.

(b) "Associate member" means a petitioning state that is found to be in compliance with the agreement and changes to its laws, rules, or other authorities necessary to bring it into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008. The petitioning states, by majority vote, may also grant associate member status to a petitioning state that does not receive an affirmative vote of three-fourths of the petitioning states upon a finding that the state has achieved substantial compliance with the terms of the agreement as a whole, but not necessarily each required provision, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008.

(c) "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) "Certified service provider" means an agent certified under the agreement to perform all of the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(e)(i) "Member state" means a state that:

(A) Has petitioned for membership in the agreement and submitted a certificate of compliance; and

(B) Before the effective date of the agreement, has been found to be in compliance with the requirements of the agreement by an affirmative vote of three-fourths of the other petitioning states; or

(C) After the effective date of the agreement, has been found to be in compliance with the agreement by a three-fourths vote of the entire governing board of the agreement.

(ii) Membership by reason of (e)(i)(A) and (B) of this subsection is effective on the first day of a calendar quarter at least sixty days after at least ten states comprising at least twenty percent of the total population, as determined by the 2000 federal census, of all states imposing a state sales tax have petitioned for membership and have either been found in compliance with the agreement or have been found to be an associate member under section 704 of the agreement.

(iii) Membership by reason of (e)(i)(A) and (C) of this subsection is effective on the state's proposed date of entry or the first day of the calendar quarter after its petition is approved by the governing board, whichever is later, and is at least sixty days after its petition is approved.

(f) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions as outlined in the contract between the streamlined sales tax governing board and the certified service provider, other than the seller's obligation to remit tax on its own purchases.

(g) "Model 2 seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(h) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection (4)(h), a seller includes an affiliated group of sellers using the same proprietary system.

(i) "Source" means the location in which the sale or use of tangible personal property, a digital good or digital code, an extended warranty, or a digital automated service or other service, subject to tax under chapter 82.08, 82.12, 82.14, or 82.14B RCW, is deemed to occur.

**Sec. 403.** RCW 82.32.715 and 2007 c 6 s 301 are each amended to read as follows:

(1) The department (~~shall~~) must adopt by rule monetary allowances for certified service providers (~~(, model 2 sellers, and model 3 sellers and all other sellers that are not model 1 or)~~) selected by model 1 sellers and also for model 2 sellers. The department may be guided by the provisions for monetary allowances adopted by the governing board of the agreement to determine the amount of the allowances and the conditions under which they are allowed. The

monetary allowances must be reasonable and provide adequate incentive for certified service providers and sellers to collect and remit sales and use taxes under the agreement. Monetary allowances will be funded solely from state sales and use taxes. The department may modify its rules for monetary allowances in light of the holding of the United States supreme court in *South Dakota v. Wayfair, Inc.*, Docket No. 17-494, issued June 21, 2018.

(2) For certified service providers, the monetary allowance may include a base rate that applies to taxable transactions processed by the certified service provider. ~~((Additionally, for a period not to exceed twenty-four months following a seller's registration under RCW 82.32.030(3), the monetary allowance may include a percentage of tax revenue generated by the seller.))~~

(3) For model 2 sellers, the monetary allowance may include a base rate and a percentage of revenue generated by a seller registering under RCW 82.32.030(3), but ~~((shall))~~ may not exceed a period of twenty-four months.

~~((4) For model 3 sellers and all other sellers that are not model 1 sellers or model 2 sellers, the monetary allowance may include a percentage of tax revenue generated by a seller registering under RCW 82.32.030(3), but shall not exceed a period of twenty-four months.))~~

**Sec. 404.** RCW 82.32.762 and 2015 3rd sp. s. c 5 s 205 are each amended to read as follows:

(1) If the department determines that a change, taking effect after ~~((September 1, 2015))~~ the effective date of this section, in the streamlined sales and use tax agreement or federal law creates a conflict with any provision of ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act), such conflicting provision or provisions of ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act), including any related provisions that would not function as originally intended, have no further force and effect as of the date the change in the streamlined sales and use tax agreement or federal law becomes effective.

(2) For purposes of this section:

(a) A change in federal law conflicts with ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act) if the change ~~((clearly allows states to impose greater sales and use tax collection obligations on remote sellers than provided for, or))~~ clearly prevents states from imposing sales and use tax collection obligations on remote sellers to the extent provided for ~~((, under RCW 82.08.052))~~ under chapter . . . , Laws of 2019 (this act).

(b) A change in the streamlined sales and use tax agreement conflicts with ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act) if one or more provisions of ~~((RCW 82.08.052))~~ chapter . . . , Laws of 2019 (this act) causes this state to be found out of compliance with the streamlined sales and use tax agreement by its governing board.

(3)(a) If the department makes a determination under this section that a change in federal law or the streamlined sales and use tax agreement conflicts with one or more provisions of ~~((RCW 82.08.052, the department))~~ chapter . . . , Laws of 2019 (this act):

~~((a))~~ (i) For purposes of conflicts between the streamlined sales and use tax agreement and chapter . . . , Laws of 2019 (this act), the department may adopt rules in accordance with chapter 34.05 RCW, including emergency rules, that are consistent with the streamlined sales and use tax agreement ~~((and that~~

~~impose sales and use tax collection obligations on remote sellers to the fullest extent allowed under state and federal law~~); and

~~((b))~~ (ii) For purposes of conflicts between federal law and chapter . . . , Laws of 2019 (this act), the department must, by rule or rules adopted in accordance with chapter 34.05 RCW, including emergency rules:

(A) Impose sales and use tax collection obligations and business and occupation tax on remote sellers to the fullest extent allowed under state and federal law, which may include adopting provisions identical or substantially similar to those in sections 202 and 204(6)(c)(ii), chapter 5, Laws of 2015 3rd sp. sess.; and

(B) Implement election, notice, and reporting provisions substantially similar to those in sections 202 through 207, chapter 28, Laws of 2017 3rd sp. sess. The department must impose such election, notice, and reporting provisions only on remote sellers and marketplace facilitators against whom the department is unable to enforce a tax collection obligation as a result of a change in federal law. The department must not impose election, notice, and reporting provisions on referrers as defined in section 204, chapter 28, Laws of 2017 3rd sp. sess. The department must impose penalties for failure to comply with notice or reporting requirements consistent with those penalties imposed in section 206, chapter 28, Laws of 2017 3rd sp. sess.

(b) For purposes of (a)(i) and (ii) of this subsection (3), the department must include information on its web site informing taxpayers and the public (i) of the provision or provisions of ((RCW 82.08.052)) chapter . . . , Laws of 2019 (this act) that will have no further force and effect, (ii) when such change will become effective, and (iii) about how to participate in any rule making conducted by the department in accordance with (a)(i) and (ii) of this subsection (3).

(4) For purposes of this section, "remote seller" ((has the same meaning as in RCW 82.08.052)) and "marketplace facilitator" have the same meaning as in RCW 82.13.010 through June 30, 2019, and RCW 82.08.010 beginning July 1, 2019.

**Sec. 405.** RCW 34.05.328 and 2018 c 207 s 8 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency must:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Provide notification in the notice of proposed rule making under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice must include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis must be available when the rule is adopted under RCW 34.05.360;

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;



(e) Determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(g) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(i) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (h) of this section, the agency must place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency must place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan must describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency must do all of the following:

(a) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(a), the agency must report to the legislature pursuant to (b) of this subsection;

(b) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, the state building code council, and to the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute, including any rules of the department of revenue adopted under the authority of RCW 82.32.762(3);

(vi) Rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045;

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents; or

(viii) Rules of the department of revenue that adopt a uniform expiration date for reseller permits as authorized in RCW 82.32.780 and 82.32.783.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency must state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of regulatory assistance, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, must report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report must document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

### Part V

#### Eliminating Unfair Tax Advantages for Foreign Marketplace Sellers and Peer-to-Peer Car Rental Marketplace Facilitators

**Sec. 501.** RCW 82.04.610 and 2007 c 477 s 2 are each amended to read as follows:

(1) This chapter does not apply to:

(a) The sale of tangible personal property in ~~((import or))~~ export commerce; and

(b) The wholesale sale of tangible personal property in import commerce, but only when the wholesale sale is:

(i) A sale of unroasted coffee beans; or

(ii) Between a parent company and its wholly owned subsidiary.

(2) Tangible personal property is in import commerce while the property is in the process of import transportation. Except as provided in (a) through (c) of this subsection, property is in the process of import transportation from the time the property begins its transportation at a point outside of the United States until

the time that the property is delivered to the buyer in this state. Property is also in the process of import transportation if it is merely flowing through this state on its way to a destination in some other state or country. However, property is no longer in the process of import transportation when the property is:

(a) Put to actual use in any state, territory, or possession of the United States for any purpose;

(b) Resold by the importer or any other person after the property has arrived in this state or any other state, territory, or possession of the United States, regardless of whether the property is in its original unbroken package or container; or

(c) Processed, handled, or otherwise stopped in transit for a business purpose other than shipping needs, if the processing, handling or other stoppage of transit occurs within the United States, including any of its possessions or territories, or the territorial waters of this state or any other state, regardless of whether the processing, handling, or other stoppage of transit occurs within a foreign trade zone.

(3)(a) Tangible personal property is in export commerce when the seller delivers the property to:

(i) The buyer at a destination in a foreign country;

(ii) A carrier consigned to and for transportation to a destination in a foreign country;

(iii) The buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the property has begun; or

(iv) The buyer in this state if the property is capable of being transported to a foreign destination under its own power, the seller files a shipper's export declaration with respect to the property listing the seller as the exporter, and the buyer immediately transports the property directly to a destination in a foreign country. This subsection (3)(a)(iv) does not apply to sales of motor vehicles as defined in RCW 46.04.320.

(b) The exemption under this subsection (3) applies with respect to property delivered to the buyer in this state if, at the time of delivery, there is a certainty of export, and the process of export has begun. The process of exportation will not be deemed to have begun if the property is merely in storage awaiting shipment, even though there is reasonable certainty that the property will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate certainty of export. The process of exportation begins when the property starts its final and certain continuous movement to a destination in a foreign country.

(4) Persons claiming an exemption under this section must keep and maintain records for the period required by RCW 82.32.070 establishing their right to the exemption.

## Part VI

### Sourcing Mitigation for Local Governments

**Sec. 601.** RCW 82.14.500 and 2017 3rd sp.s. c 28 s 402 are each amended to read as follows:

(1) In order to mitigate local sales tax revenue net losses as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title, the state treasurer, on July 1, 2011, and each July 1st thereafter through July

1, 2019, must transfer into the streamlined sales and use tax mitigation account from the general fund the sum required to mitigate actual net losses as determined under this section.

(2) Beginning July 1, 2008, and continuing until the department determines annual losses under subsection (3) of this section, the department must determine the amount of local sales tax net loss each local taxing jurisdiction experiences as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title each calendar quarter. The department must determine losses by analyzing and comparing data from tax return information and tax collections for each local taxing jurisdiction before and after July 1, 2008, on a calendar quarter basis. The department's analysis may be revised and supplemented in consultation with the oversight committee as provided in subsection (4) of this section. To determine net losses, the department must reduce losses by the amount of voluntary compliance revenue for the calendar quarter analyzed. Beginning December 31, 2008, distributions must be made quarterly from the streamlined sales and use tax mitigation account by the state treasurer, as directed by the department, to each local taxing jurisdiction, other than public facilities districts for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing its net losses for the previous calendar quarter. Distributions must be made on the last working day of each calendar quarter and must cease when distributions under subsection (3) of this section begin.

(3)(a) By December 31, 2009, or such later date the department in consultation with the oversight committee determines that sufficient data is available, the department must determine each local taxing jurisdiction's annual loss. The department must determine annual losses by comparing at least twelve months of data from tax return information and tax collections for each local taxing jurisdiction before and after July 1, 2008. The department is not required to determine annual losses on a recurring basis, but may make any adjustments to annual losses as it deems proper as a result of the annual reviews provided in (b) of this subsection. Beginning the calendar quarter in which the department determines annual losses, and each calendar quarter thereafter through September 30, 2019, distributions must be made from the streamlined sales and use tax mitigation account by the state treasurer on the last working day of the calendar quarter, as directed by the department, to each local taxing jurisdiction, other than public facilities districts for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing one-fourth of the jurisdiction's annual loss reduced by voluntary compliance revenue reported during the previous calendar quarter and marketplace facilitator/remote seller revenue reported during the previous calendar quarter.

(b) The department's analysis of annual losses must be reviewed by December 1st of each year and may be revised and supplemented in consultation with the oversight committee as provided in subsection (4) of this section.

(4) The department must convene an oversight committee to assist in the determination of losses. The committee includes one representative of one city whose revenues are increased, one representative of one city whose revenues are reduced, one representative of one county whose revenues are increased, one representative of one county whose revenues are decreased, one representative of one transportation authority under RCW 82.14.045 whose revenues are

increased, and one representative of one transportation authority under RCW 82.14.045 whose revenues are reduced, as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020. Beginning July 1, 2008, the oversight committee must meet quarterly with the department to review and provide additional input and direction on the department's analyses of losses. Local taxing jurisdictions may also present to the oversight committee additional information to improve the department's analyses of the jurisdiction's loss. Beginning January 1, 2010, the oversight committee must meet at least annually with the department by December 1st.

(5) The rule-making provisions of chapter 34.05 RCW do not apply to this section.

(6)(a) As a result of part II of chapter 28, Laws of 2017 3rd sp. sess., local sales and use tax revenue is anticipated to increase due to additional tax remittance by marketplace facilitators, remote sellers, and consumers. This additional revenue will further mitigate the losses that resulted from the sourcing provisions of the streamlined sales and use tax agreement under this title and should be reflected in mitigation payments to negatively impacted local jurisdictions.

(b) Beginning January 1, 2018, and continuing through September 30, 2019, the department must determine the increased sales and use tax revenue each local taxing jurisdiction experiences from marketplace facilitator/remote seller revenue as a result of (~~RCW 82.08.053, 82.08.0531, 82.32.047, and 82.32.763, chapter 82.13 RCW, and~~) sections 201(~~211, and~~) through 213, chapter 28, Laws of 2017 3rd sp. sess. each calendar quarter. The department must convene the mitigation advisory committee before January 1, 2018, to receive input on the determination of marketplace facilitator/remote seller revenue. Beginning with distributions made after March 31, 2018, distributions from the streamlined sales and use tax mitigation account by the state treasurer, as directed by the department, to each local taxing jurisdiction, must be reduced by the amount of its marketplace facilitator/remote seller revenue reported during the previous calendar quarter. (~~No later than December 1, 2019, the department will determine the total marketplace facilitator/remote seller revenue for each local taxing jurisdiction for reporting periods beginning January 1, 2018, through reporting periods ending June 30, 2019. If the total distribution made from the streamlined sales and use tax mitigation account to a local taxing jurisdiction was not fully reduced by its total amount of marketplace facilitator/remote seller revenue for reporting periods beginning January 1, 2018, through reporting periods ending June 30, 2019, the department must reduce the local taxing jurisdiction's distribution of local sales and use tax under RCW 82.14.060 by the excess amount received.~~)

## Part VII

### Conforming Amendments

**Sec. 701.** RCW 34.05.010 and 2014 c 97 s 101 are each amended to read as follows:

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

(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency.

Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a

certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.

(10) "Mail" or "send," for purposes of any notice relating to rule making or policy or interpretive statements, means regular mail or electronic distribution, as provided in RCW 34.05.260. "Electronic distribution" or "electronically" means distribution by (~~electronic mail or facsimile mail~~) email or fax.

(11)(a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

(12) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(13) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

(14) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

(15) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

(16) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure, practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.05.240, (iii) traffic restrictions for motor vehicles,



bicyclists, and pedestrians established by the secretary of transportation or his or her designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes(~~(, or (v) the determination and publication of updated nexus thresholds by the department of revenue in accordance with RCW 82.04.067).~~).

(17) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 for the purpose of selectively reviewing existing and proposed rules of state agencies.

(18) "Rule making" means the process for formulation and adoption of a rule.

(19) "Service," except as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal or electronic service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic transmission, or by commercial parcel delivery company.

**Sec. 702.** RCW 82.04.066 and 2017 3rd sp.s. c 28 s 301 are each amended to read as follows:

"Engaging within this state" and "engaging within the state," when used in connection with any apportionable activity as defined in RCW 82.04.460 or selling activity taxable under RCW 82.04.250(1), 82.04.257(1), ~~((or))~~ 82.04.270, or other provision of this chapter means that a person generates gross income of the business from sources within this state, such as customers or intangible property located in this state, regardless of whether the person is physically present in this state.

**Sec. 703.** RCW 82.04.43391 and 2017 c 323 s 503 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax interest and fees on loans secured by commercial aircraft primarily used to provide routine air service and owned by:

(a) An air carrier, as defined in RCW 82.42.010, which is primarily engaged in the business of providing passenger air service;

(b) An affiliate of such air carrier; or

(c) A parent entity for which such air carrier is an affiliate.

(2) The deduction authorized under this section is not available to any person who is physically present in this state as determined under RCW 82.04.067(~~((6))~~).

(3) For purposes of this section, the following definitions apply:

(a) "Affiliate" means a person is "affiliated," as defined in RCW 82.04.645, with another person; and

(b) "Commercial aircraft" means a commercial airplane as defined in RCW 82.32.550.

**Sec. 704.** RCW 82.12.040 and 2017 3rd sp.s. c 28 s 213 are each amended to read as follows:

(1) Every person who is subject to a collection obligation under chapter 82.08 RCW(~~(, except a person making a valid election to comply with the notice~~

~~and reporting provisions of RCW 82.13.020,))~~ must obtain from the department a certificate of registration (~~and~~). Such persons must, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. This section does not apply to any retail sale if, in respect to such sale, the seller is subject to a tax collection obligation under chapter 82.08 RCW.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless personally liable to the state for the amount of such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (5) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(6) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(7) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by

conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter.

**Part VIII**  
**Miscellaneous**

**NEW SECTION. Sec. 801.** The repeals and amendments in this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or amended, or under any rule or order adopted under those statutes, nor do they affect any proceeding instituted under them.

**NEW SECTION. Sec. 802.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 803.** This act applies prospectively only, except for sections 106 and 201 of this act, which apply both prospectively and retroactively to October 1, 2018.

**NEW SECTION. Sec. 804.** Sections 101, 104, 106, 201, 402, 403, 404, 405, and 501 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 805.** Sections 105, 301, 302, 401, and 704 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 July 1, 2019.

**NEW SECTION. Sec. 806.** Sections 102, 103, 107, 701, 702, and 703 of this act take effect January 1, 2020.

**NEW SECTION. Sec. 807.** Section 601 of this act expires October 1, 2019.

Passed by the Senate March 11, 2019.

Passed by the House March 8, 2019.

Approved by the Governor March 14, 2019.

Filed in Office of Secretary of State March 15, 2019.

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**CHAPTER 9**

[Substitute Senate Bill 5954]

**BUMP-FIRE STOCK BUY-BACK PROGRAM**

AN ACT Relating to the bump-fire stock buy-back program; amending RCW 43.43.920; making an appropriation; and declaring an emergency.

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

**Sec. 1.** RCW 43.43.920 and 2018 c 7 s 10 are each amended to read as follows:

(1) The Washington state patrol shall establish and administer a bump-fire stock buy-back program to allow a person in possession of a bump-fire stock to relinquish the device to the Washington state patrol (~~(or a participating local law enforcement agency)~~) in exchange for a monetary payment established under this section. The Washington state patrol shall adopt rules to implement the bump-fire stock buy-back program according to the following standards:

(a) The buy-back program must be implemented between July 1, 2018, and June 30, 2019, at locations in regions throughout the state.

(b) The buy-back program must allow ~~((an individual))~~ a Washington resident to relinquish ((a)) up to five bump-fire stocks ~~((to the Washington state patrol or a local law enforcement agency participating in the program))~~ as provided in subsection (2) of this section in exchange for a monetary payment of one hundred fifty dollars. ~~((The Washington state patrol shall coordinate with local law enforcement agencies in implementing the program.))~~

(c) The Washington state patrol shall establish the method for providing the monetary ~~((payment and reimbursing a participating law enforcement agency for))~~ payments made to individuals under the buy-back program.

(d) The buy-back program is subject to the availability of funds appropriated for this specific purpose. This section does not create a right or entitlement in a person to receive a monetary payment under the buy-back program. The program must be operated on a first-come, first-served basis and no payments may be made that would require the Washington state patrol to exceed the amount appropriated in section 2 of this act.

(e) The Washington state patrol ~~((and participating law enforcement agencies))~~ shall establish guidelines for the destruction or other disposition of bump-fire stocks relinquished under this section.

(2) A Washington resident may obtain payment for relinquishing up to five bump-fire stocks by taking one of the following actions:

(a) By relinquishing an operable or inoperable bump-fire stock to the Washington state patrol before the effective date of any federal law or rule that prohibits possession of bump-fire stocks or June 30, 2019, whichever is earlier; or

(b) No later than June 30, 2019, by providing the Washington state patrol with a receipt or statement from the federal bureau of alcohol, tobacco, firearms, and explosives, or a Washington law enforcement agency, that a bump-fire stock was relinquished to the agency before the effective date of any federal law or rule that prohibits possession of bump-fire stocks.

(3) This section expires January 1, 2020.

**NEW SECTION. Sec. 2.** The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2019, from the general fund to the Washington state patrol for the purposes of this act.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 12, 2019.

Passed by the House March 11, 2019.

Approved by the Governor March 14, 2019.

Filed in Office of Secretary of State March 15, 2019.

## CHAPTER 10

[House Bill 1906]

## DOLORES HUERTA DAY

AN ACT Relating to recognizing the tenth day of April as Dolores Huerta day; and amending RCW 1.16.050.

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

**Sec. 1.** RCW 1.16.050 and 2018 c 307 s 1 are each amended to read as follows:

(1) The following are state legal holidays:

(a) Sunday;

(b) The first day of January, commonly called New Year's Day;

(c) The third Monday of January, celebrated as the anniversary of the birth of Martin Luther King, Jr.;

(d) The third Monday of February, to be known as Presidents' Day and celebrated as the anniversary of the births of Abraham Lincoln and George Washington;

(e) The last Monday of May, commonly known as Memorial Day;

(f) The fourth day of July, the anniversary of the Declaration of Independence;

(g) The first Monday in September, to be known as Labor Day;

(h) The eleventh day of November, to be known as Veterans' Day;

(i) The fourth Thursday in November, to be known as Thanksgiving Day;

(j) The Friday immediately following the fourth Thursday in November, to be known as Native American Heritage Day; and

(k) The twenty-fifth day of December, commonly called Christmas Day.

(2) Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for in this section after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

(3) Employees of the state and its political subdivisions, including employees of school districts and those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. This includes employees of public institutions of higher education, including community colleges, technical colleges, and workforce training programs. The employee may select the days on which the employee desires to take the two unpaid holidays after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority. If an employee prefers to take the two

unpaid holidays on specific days for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization, the employer must allow the employee to do so unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. Undue hardship shall have the meaning established in rule by the office of financial management under RCW 43.41.109.

(4) If any of the state legal holidays specified in this section are also federal legal holidays but observed on different dates, only the state legal holidays are recognized as a paid legal holiday for employees of the state and its political subdivisions. However, for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday is recognized as a paid legal holiday, but in no case may both holidays be recognized as a paid legal holiday for employees.

(5) Whenever any state legal holiday:

(a) Other than Sunday, falls upon a Sunday, the following Monday is the legal holiday; or

(b) Falls upon a Saturday, the preceding Friday is the legal holiday.

(6) Nothing in this section may be construed to have the effect of adding or deleting the number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

(7) The legislature declares that the following days are recognized as provided in this subsection, but may not be considered legal holidays for any purpose:

(a) The thirteenth day of January, recognized as Korean-American day;

(b) The twelfth day of October, recognized as Columbus day;

(c) The ninth day of April, recognized as former prisoner of war recognition day;

(d) The twenty-sixth day of January, recognized as Washington army and air national guard day;

(e) The seventh day of August, recognized as purple heart recipient recognition day;

(f) The second Sunday in October, recognized as Washington state children's day;

(g) The sixteenth day of April, recognized as Mother Joseph day;

(h) The fourth day of September, recognized as Marcus Whitman day;

(i) The seventh day of December, recognized as Pearl Harbor remembrance day;

(j) The twenty-seventh day of July, recognized as national Korean war veterans armistice day;

(k) The nineteenth day of February, recognized as civil liberties day of remembrance;

(l) The nineteenth day of June, recognized as Juneteenth, a day of remembrance for the day the slaves learned of their freedom;

(m) The thirtieth day of March, recognized as welcome home Vietnam veterans day;

(n) The eleventh day of January, recognized as human trafficking awareness day; (~~and~~)

- (o) The thirty-first day of March, recognized as Cesar Chavez day; and  
 (p) The tenth day of April, recognized as Dolores Huerta day.

Passed by the House March 4, 2019.

Passed by the Senate March 18, 2019.

Approved by the Governor March 21, 2019.

Filed in Office of Secretary of State March 21, 2019.

## CHAPTER 11

[Engrossed Substitute House Bill 1099]

### HEALTH CARRIER NETWORK ADEQUACY--MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT

AN ACT Relating to providing notice about network adequacy to consumers; adding a new section to chapter 48.43 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) The commissioner shall amend his or her rules on electronic provider directories to require health carriers to include a notation when any mental health provider or substance abuse provider is closed to new patients.

(2) Beginning January 1, 2020, a health carrier shall prominently post the information listed in (a) through (e) of this subsection on its web site in an easily understandable format and in a manner that any interested party may obtain the information:

(a) Whether the health carrier classifies mental health treatment and substance abuse treatment as primary care or specialty care and the number of business days within which an enrollee must have access to covered mental health treatment services and substance abuse treatment services under network access standards pertaining to primary care or specialty care, as applicable, adopted by the commissioner;

(b) Information on actions an enrollee may take if he or she is unable to access covered mental health treatment services or substance abuse treatment services within the requisite number of business days, including any tools or resources the carrier makes available to enrollees to assist them in finding available providers and information on how to file a complaint with the office of the insurance commissioner;

(c) Any instances where the commissioner has taken disciplinary action against the health carrier for failing to comply with network access standards for covered mental health treatment services or substance abuse treatment services;

(d) A link to the commissioner's report published under subsection (5) of this section; and

(e) Resources for persons who are experiencing a mental health crisis including, but not limited to, information on the national suicide prevention lifeline.

(3) The commissioner shall, by rule, specify a model format for the information required to be posted on a health carrier's web site under subsection (2) of this section.

(4) The commissioner may audit the information a health carrier provides under this section for accuracy.

(5) The commissioner shall annually publish on the commissioner's web site a report on the number of consumer complaints per licensed health carrier the commissioner received in the previous calendar year regarding consumers who were not able to access covered mental health treatment services or substance abuse treatment services within the time limits established by the commissioner for primary care or specialty care.

NEW SECTION. **Sec. 2.** This act may be known and cited as Brennen's law.

Passed by the House March 8, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 3, 2019.

Filed in Office of Secretary of State April 4, 2019.

## CHAPTER 12

[House Bill 1349]

### GERIATRIC BEHAVIORAL HEALTH WORKERS--DEFINITION

AN ACT Relating to clarifying the definition of a geriatric behavioral health worker for individuals with a bachelor's or master's degree in social work, behavioral health, or other related areas; and amending RCW 74.42.010 and 74.42.360.

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

**Sec. 1.** RCW 74.42.010 and 2017 c 200 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services and the department's employees.

(2) "Direct care staff" means the staffing domain identified and defined in the center for medicare and medicaid service's five-star quality rating system and as reported through the center for medicare and medicaid service's payroll-based journal.

(3) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(4) "Geriatric behavioral health worker" means a person with a bachelor's or master's degree in social work, behavioral health, or other related areas, or a person who has received specialized training devoted to mental illness and treatment of older adults.

(5) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(6) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(7) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(8) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.



(9) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(10) "Physician assistant" means a person practicing pursuant to chapter 18.57A or 18.71A RCW.

(11) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker as defined in RCW 18.320.010(2).

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(12) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

(13) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

**Sec. 2.** RCW 74.42.360 and 2017 c 200 s 3 are each amended to read as follows:

(1) The facility shall have staff on duty twenty-four hours daily sufficient in number and qualifications to carry out the provisions of RCW 74.42.010 through 74.42.570 and the policies, responsibilities, and programs of the facility.

(2) The department shall institute minimum staffing standards for nursing homes. Beginning July 1, 2016, facilities must provide a minimum of 3.4 hours per resident day of direct care. Direct care staff has the same meaning as defined in RCW 74.42.010. The minimum staffing standard includes the time when such staff are providing hands-on care related to activities of daily living and nursing-related tasks, as well as care planning. The legislature intends to increase the minimum staffing standard to 4.1 hours per resident day of direct care, but the effective date of a standard higher than 3.4 hours per resident day of direct care will be identified if and only if funding is provided explicitly for an increase of the minimum staffing standard for direct care.

(a) The department shall establish in rule a system of compliance of minimum direct care staffing standards by January 1, 2016. Oversight must be done at least quarterly using the center for medicare and medicaid service's payroll-based journal and nursing home facility census and payroll data.

(b) The department shall establish in rule by January 1, 2016, a system of financial penalties for facilities out of compliance with minimum staffing standards. No monetary penalty may be issued during the implementation period of July 1, 2016, through September 30, 2016. If a facility is found noncompliant

during the implementation period, the department shall provide a written notice identifying the staffing deficiency and require the facility to provide a sufficiently detailed correction plan to meet the statutory minimum staffing levels. Monetary penalties begin October 1, 2016. Monetary penalties must be established based on a formula that calculates the cost of wages and benefits for the missing staff hours. If a facility meets the requirements in subsection (3) or (4) of this section, the penalty amount must be based solely on the wages and benefits of certified nurse aides. The first monetary penalty for noncompliance must be at a lower amount than subsequent findings of noncompliance. Monetary penalties established by the department may not exceed two hundred percent of the wage and benefit costs that would have otherwise been expended to achieve the required staffing minimum hours per resident day for the quarter. A facility found out of compliance must be assessed a monetary penalty at the lowest penalty level if the facility has met or exceeded the requirements in subsection (2) of this section for three or more consecutive years. Beginning July 1, 2016, pursuant to rules established by the department, funds that are received from financial penalties must be used for technical assistance, specialized training, or an increase to the quality enhancement established in RCW 74.46.561.

(c) The department shall establish in rule an exception allowing geriatric behavioral health workers as defined in RCW 74.42.010 to be recognized in the minimum staffing requirements as part of the direct care service delivery to individuals who have a behavioral health condition. Hours worked by geriatric behavioral health workers may be recognized as direct care hours for purposes of the minimum staffing requirements only up to a portion of the total hours equal to the proportion of resident days of clients with a behavioral health condition identified at that facility on the most recent semiannual minimum data set. In order to qualify for the exception:

(i) The worker must:

(A) Have a bachelor's or master's degree in social work, behavioral health, or other related areas; or

(B) Have at least three years experience providing care for individuals with chronic mental health issues, dementia, or intellectual and developmental disabilities in a long-term care or behavioral health care setting; or

~~((B))~~ (C) Have successfully completed a facility-based behavioral health curriculum approved by the department under RCW 74.39A.078;

(ii) ~~((The worker must have advanced practice knowledge in aging, disability, mental illness, Alzheimer's disease, and developmental disabilities; and~~

~~((iii))~~ Any geriatric behavioral health worker holding less than a master's degree in social work must be directly supervised by an employee who has a master's degree in social work or a registered nurse.

(d)(i) The department shall establish a limited exception to the 3.4 hours per resident day staffing requirement for facilities demonstrating a good faith effort to hire and retain staff.

(ii) To determine initial facility eligibility for exception consideration, the department shall send surveys to facilities anticipated to be below, at, or slightly above the 3.4 hours per resident day requirement. These surveys must measure the hours per resident day in a manner as similar as possible to the centers for

medicare and medicaid services' payroll-based journal and cover the staffing of a facility from October through December of 2015, January through March of 2016, and April through June of 2016. A facility must be below the 3.4 staffing standard on all three surveys to be eligible for exception consideration. If the staffing hours per resident day for a facility declines from any quarter to another during the survey period, the facility must provide sufficient information to the department to allow the department to determine if the staffing decrease was deliberate or a result of neglect, which is the lack of evidence demonstrating the facility's efforts to maintain or improve its staffing ratio. The burden of proof is on the facility and the determination of whether or not the decrease was deliberate or due to neglect is entirely at the discretion of the department. If the department determines a facility's decline was deliberate or due to neglect, that facility is not eligible for an exception consideration.

(iii) To determine eligibility for exception approval, the department shall review the plan of correction submitted by the facility. Before a facility's exception may be renewed, the department must determine that sufficient progress is being made towards reaching the 3.4 hours per resident day staffing requirement. When reviewing whether to grant or renew an exception, the department must consider factors including but not limited to: Financial incentives offered by the facilities such as recruitment bonuses and other incentives; the robustness of the recruitment process; county employment data; specific steps the facility has undertaken to improve retention; improvements in the staffing ratio compared to the baseline established in the surveys and whether this trend is continuing; and compliance with the process of submitting staffing data, adherence to the plan of correction, and any progress toward meeting this plan, as determined by the department.

(iv) Only facilities that have their direct care component rate increase capped according to RCW 74.46.561 are eligible for exception consideration. Facilities that will have their direct care component rate increase capped for one or two years are eligible for exception consideration through June 30, 2017. Facilities that will have their direct care component rate increase capped for three years are eligible for exception consideration through June 30, 2018.

(v) The department may not grant or renew a facility's exception if the facility meets the 3.4 hours per resident day staffing requirement and subsequently drops below the 3.4 hours per resident day staffing requirement.

(vi) The department may grant exceptions for a six-month period per exception. The department's authority to grant exceptions to the 3.4 hours per resident day staffing requirement expires June 30, 2018.

(3)(a) Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(b) The department shall establish a limited exception process to facilities that can demonstrate a good faith effort to hire a registered nurse for the last eight hours of required coverage per day. In granting an exception, the department may consider wages and benefits offered and the availability of registered nurses in the particular geographic area. A one-year exception may be granted and may be renewable for up to three consecutive years; however, the department may limit the admission of new residents, based on medical conditions or complexities, when a registered nurse is not on-site and readily

available. If a facility receives an exemption, that information must be included in the department's nursing home locator. After June 30, 2019, the department, along with a stakeholder work group established by the department, shall conduct a review of the exceptions process to determine if it is still necessary.

(4) Essential community providers and small nonessential community providers must have a registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week.

(5) For the purposes of this section, "behavioral health condition" means one or more of the behavioral symptoms specified in section E of the minimum data set.

Passed by the House March 1, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 3, 2019.

Filed in Office of Secretary of State April 4, 2019.

## CHAPTER 13

[Substitute House Bill 1399]

### PAID FAMILY AND MEDICAL LEAVE--REVISION

AN ACT Relating to paid family and medical leave; amending RCW 50A.04.010, 50A.04.015, 50A.04.020, 50A.04.025, 50A.04.030, 50A.04.035, 50A.04.040, 50A.04.045, 50A.04.055, 50A.04.060, 50A.04.065, 50A.04.070, 50A.04.075, 50A.04.080, 50A.04.085, 50A.04.090, 50A.04.095, 50A.04.100, 50A.04.105, 50A.04.110, 50A.04.115, 50A.04.120, 50A.04.125, 50A.04.145, 50A.04.160, 50A.04.165, 50A.04.170, 50A.04.175, 50A.04.185, 50A.04.195, 50A.04.200, 50A.04.205, 50A.04.215, 50A.04.220, 50A.04.225, 50A.04.230, 50A.04.235, 50A.04.240, 50A.04.245, 50A.04.250, 50A.04.255, 50A.04.260, 50A.04.265, 50A.04.505, 50A.04.510, 50A.04.520, 50A.04.525, 50A.04.540, 50A.04.550, 50A.04.555, 50A.04.560, 50A.04.565, 50A.04.580, 50A.04.590, 50A.04.595, 50A.04.600, 50A.04.610, 50A.04.615, 50A.04.625, 50A.04.645, 50A.04.650, 50A.04.655, 50A.04.660, 50A.04.900, 50.29.021, 43.20A.080, and 42.56.410; reenacting and amending RCW 26.23.060; adding new chapters to Title 50A RCW; recodifying RCW 50A.04.005, 50A.04.010, 50A.04.195, 50A.04.200, 50A.04.205, 50A.04.210, 50A.04.215, 50A.04.220, 50A.04.225, 50A.04.235, 50A.04.255, 50A.04.265, 50A.04.900, 50A.04.105, 50A.04.110, 50A.04.115, 50A.04.120, 50A.04.125, 50A.04.015, 50A.04.020, 50A.04.030, 50A.04.035, 50A.04.040, 50A.04.045, 50A.04.050, 50A.04.055, 50A.04.060, 50A.04.065, 50A.04.240, 50A.04.250, 50A.04.230, 50A.04.600, 50A.04.605, 50A.04.610, 50A.04.615, 50A.04.620, 50A.04.625, 50A.04.630, 50A.04.635, 50A.04.640, 50A.04.645, 50A.04.650, 50A.04.655, 50A.04.660, 50A.04.665, 50A.04.025, 50A.04.245, 50A.04.260, 50A.04.085, 50A.04.095, 50A.04.100, 50A.04.090, 50A.04.130, 50A.04.135, 50A.04.140, 50A.04.145, 50A.04.150, 50A.04.155, 50A.04.160, 50A.04.165, 50A.04.170, 50A.04.175, 50A.04.180, 50A.04.185, 50A.04.190, 50A.04.500, 50A.04.505, 50A.04.510, 50A.04.515, 50A.04.520, 50A.04.525, 50A.04.530, 50A.04.535, 50A.04.540, 50A.04.545, 50A.04.550, 50A.04.555, 50A.04.560, 50A.04.565, 50A.04.570, 50A.04.575, 50A.04.580, 50A.04.585, 50A.04.590, 50A.04.595, 50A.04.070, 50A.04.075, and 50A.04.080; and prescribing penalties.

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

**Sec. 1.** RCW 50A.04.010 and 2018 c 141 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this (~~chapter~~) title.

(1) "Child" includes a biological, adopted, or foster child, a stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(2) "Commissioner" means the commissioner of the department or the commissioner's designee.

(3) "Department" means the employment security department.

(4)(a) "Employee" means an individual who is in the employment of an employer.

(b) "Employee" does not include employees of the United States of America.

(5) "Employee's average weekly wage" means the quotient derived by dividing the employee's total wages during the two quarters of the employee's qualifying period in which total wages were highest by twenty-six. If the result is not a multiple of one dollar, the department must round the result to the next lower multiple of one dollar.

(6)(a) "Employer" means: (i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this (~~chapter~~) title; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(b) "Employer" does not include the United States of America.

(7)(a) "Employment" means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state, but some of the service is performed in this state; and

(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Services for remuneration when it is shown to the satisfaction of the commissioner that:

(A)(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or

(B) As a separate alternative:

(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; or

(iii) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for

federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(D) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW.

(8) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions (~~except benefits that are provided by a practice or written policy of an employer or through an employee benefit plan as defined in 29 U.S.C. Sec. 1002(3))~~).

(9) "Family leave" means any leave taken by an employee from work:

(a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of a child under the age of eighteen with the employee; or

(c) Because of any qualifying exigency as permitted under the federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E) and 29 C.F.R. Sec. 825.126(~~(a)~~) (b)(1) through (~~(8)~~) (9), as they existed on October 19, 2017, for family members as defined in subsection (10) of this section.

(10) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee.

(11) "Grandchild" means a child of the employee's child.

(12) "Grandparent" means a parent of the employee's parent.

(13) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

(14) "Medical leave" means any leave taken by an employee from work made necessary by the employee's own serious health condition.

(15) "Parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, or an

individual who stood in loco parentis to an employee when the employee was a child.

(16) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of a serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

(17) "Premium" or "premiums" means the payments required by RCW 50A.04.115 (as recodified by this act) and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.04.220 (as recodified by this act).

(18) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

(19)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, is considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Remuneration also includes settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date. The proceeds are deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Remuneration does not include:

(i) The payment of tips;

(ii) Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee;  
or

(iii) Payments to members of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

(20)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by



a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring

special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this ~~((chapter))~~ title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this ~~((chapter))~~ title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this ~~((chapter))~~ title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this ~~((chapter))~~ title even though the employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

~~((20))~~ (21) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

~~((21))~~ (22) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

~~((22))~~ (23) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

~~((23))~~ (24) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee since the beginning of the qualifying period; and

(b) Forty hours for a salaried employee, regardless of the number of hours the salaried employee typically works.

~~((24))~~ (25) "Wage" or "wages" means ~~((the same as "wages" under RCW 50.04.320(2), except that))~~:

(a) ~~((The term employment as used in RCW 50.04.320(2) is defined in this chapter))~~ For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.04.115(4) (as recodified by this act); ~~((and))~~

~~((the maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.04.115(4). "Wages"))~~ For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose(s) of ~~((elective))~~ a self-employed person electing coverage under RCW 50A.04.105 ~~((has))~~ (as recodified by this act), the meaning ~~((as))~~ is defined by rule.

**Sec. 2.** RCW 50A.04.015 and 2017 3rd sp.s. c 5 s 3 are each amended to read as follows:

Employees are eligible for family and medical leave benefits as provided in this ~~((chapter))~~ title after working for at least eight hundred twenty hours in employment during the qualifying period.

**Sec. 3.** RCW 50A.04.020 and 2017 3rd sp.s. c 5 s 6 are each amended to read as follows:

(1)(a) Beginning January 1, 2020, family and medical leave are available and benefits are payable to a qualified employee under this section. Following a waiting period consisting of the first seven consecutive calendar days ~~((of leave))~~, benefits are payable when family or medical leave is required. However, no waiting period is required for leave for the birth or placement of a child. The waiting period begins when an otherwise eligible employee takes leave for the minimum claim duration under subsection (2)(c) of this section.

(b) Benefits may continue during the continuance of the need for family and medical leave, subject to the maximum and minimum weekly benefits, duration, and other conditions and limitations established in this ~~((chapter))~~ title. Successive periods of family and medical leave caused by the same or related injury or sickness are deemed a single period of family and medical leave only if separated by less than four months.

(2) The weekly benefit shall be prorated by the percentage of hours on leave compared to the number of hours provided as the typical workweek hours as defined in RCW 50A.04.010 (as recodified by this act).

(a) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(b) Hours on leave claimed for benefits under this ~~((chapter))~~ title, if not a multiple of one hour, shall be reduced to the next lower multiple of one hour.

(c) The minimum claim duration payment is for eight consecutive hours of leave.

(3)(a) The maximum duration of paid family leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks.

(b) The maximum duration of paid medical leave may not exceed twelve times the typical workweek hours during a period of fifty-two consecutive calendar weeks. This leave may be extended an additional two times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(c) An employee is not entitled to paid family and medical leave benefits under this ~~((chapter))~~ title that exceeds a combined total of sixteen times the typical workweek hours. The combined total of family and medical leave may be extended to eighteen times the typical workweek hours if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(4) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) ~~((Fifty percent))~~ Equal to or less than one-half of the state average weekly wage, then the ~~((employee's weekly))~~ benefit amount is equal to ninety percent of the employee's average weekly wage; or (b) greater than ~~((fifty percent))~~ one-half of the state average weekly wage, then the ~~((employee's weekly))~~ benefit amount is the sum of: (i) Ninety percent of ((the employee's average weekly wage up to fifty percent)) one-half of the state average weekly wage; and (ii) fifty percent of the difference of the employee's average weekly wage ((that is greater than fifty percent)) and one-half of the state average weekly wage.

(5)(a) The maximum weekly benefit for family and medical leave that occurs on or after January 1, 2020, shall be one thousand dollars. By September 30, 2020, and by each subsequent September 30th, the commissioner shall adjust the maximum weekly benefit amount to ninety percent of the state average weekly wage. The adjusted maximum weekly benefit amount takes effect on the following January 1st.

(b) The minimum weekly benefit shall not be less than one hundred dollars per week except that if the employee's average weekly wage at the time of family and medical leave is less than one hundred dollars per week, the weekly benefit shall be the employee's full wage.

**Sec. 4.** RCW 50A.04.025 and 2017 3rd sp.s. c 5 s 31 are each amended to read as follows:

(1) Except as provided in RCW 50A.04.600(5) (as recodified by this act) and subsection (6) of this section, any employee who takes family or medical leave under this ~~((chapter))~~ title is entitled, on return from the leave:

(a) To be restored by the employer to the position of employment held by the employee when the leave commenced; or

(b) To be restored by the employer to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) The taking of leave under this ((chapter)) title may not result in the loss of any employment benefits accrued before the date on which the leave commenced.

(3) Nothing in this section shall be construed to entitle any restored employee to:

(a) The accrual of any seniority or employment benefits during any period of leave; or

(b) Any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) As a condition of restoration under subsection (1) of this section for an employee who has taken medical leave, the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the employee's health care provider that the employee is able to resume work.

(5) Nothing in this section shall be construed to prohibit an employer from requiring an employee on leave to report periodically to the employer on the status and intention of the employee to return to work.

(6)(a) This section does not apply unless the employee: (i) Works for an employer with fifty or more employees; (ii) has been employed by the current employer for twelve months or more; and (iii) has worked for the current employer for at least one thousand two hundred fifty hours during the twelve months immediately preceding the date on which leave will commence. For the purposes of this subsection, an employer shall be considered to employ fifty or more employees if the employer employs fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding calendar year.

(b) An employer may deny restoration under this section to any salaried employee who is among the highest paid ten percent of the employees employed by the employer within seventy-five miles of the facility at which the employee is employed if:

(i) Denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) The employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that the injury would occur; and

(iii) The leave has commenced and the employee elects not to return to employment after receiving the notice.

**Sec. 5.** RCW 50A.04.030 and 2017 3rd sp.s. c 5 s 12 are each amended to read as follows:

(1) If the necessity for leave for the birth or placement of a child with the employee is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than thirty days' notice, before the date the leave is to begin, of the employee's intention to take leave for the birth or placement of a child, except that if the date of the birth or placement requires

leave to begin in less than thirty days, the employee shall provide such notice as is practicable.

(2) If the necessity for leave for a family member's serious health condition or the employee's serious health condition is foreseeable based on planned medical treatment, the employee:

(a) Must make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the family member, as appropriate; and

(b) Must provide the employer with not less than thirty days' notice, before the date the leave is to begin, of the employee's intention to take leave for a family member's serious health condition or the employee's serious health condition, except that if the date of the treatment requires leave to begin in less than thirty days, the employee must provide such notice as is practicable.

(3) The employer may waive any or all of the employee notice requirements in this section and in RCW 50A.04.035(1)(f) (as recodified by this act).

**Sec. 6.** RCW 50A.04.035 and 2017 3rd sp.s. c 5 s 13 are each amended to read as follows:

(1) Family and medical leave insurance benefits are payable to an employee during a period in which the employee is unable to perform his or her regular or customary work because he or she is on family and medical leave if the employee:

(a) Files an application for benefits as required by rules adopted by the commissioner;

(b) Has met the eligibility requirements of RCW 50A.04.015 (as recodified by this act) or the elective coverage requirements under RCW 50A.04.105 (as recodified by this act);

(c) Consents to the disclosure of information or records deemed private and confidential under state law. Initial disclosure of this information and these records by another state agency to the department is solely for purposes related to the administration of this ~~((chapter))~~ title. Further disclosure of this information or these records is subject to chapter ~~((50.13))~~ 50A.--- RCW ~~((and))~~ (the new chapter created in section 84 of this act), RCW 50A.04.195(3) (as recodified by this act), and RCW 50A.04.080 (as recodified by this act);

(d) ~~((Discloses whether or not he or she owes child support obligations as defined in RCW 50.40.050;~~

~~((e)))~~ Provides his or her social security number;

~~((f)))~~ (e) Provides a document authorizing the family member's or employee's health care provider, as applicable, to disclose the family member's or employee's health care information in the form of the certification of a serious health condition;

~~((g)))~~ (f) Provides the employer from whom family and medical leave is to be taken with written notice of the employee's intention to take family leave in the same manner as an employee is required to provide notice in RCW 50A.04.030 (as recodified by this act) and, in the employee's initial application for benefits, attests that written notice has been provided, unless notice has been waived by the employer under RCW 50A.04.030(3) (as recodified by this act); and

~~((h))~~ ~~If requested by the employer,~~) (g) Provides documentation of a military exigency, if requested by the employer.

(2) An employee who is not in employment for an employer at the time of filing an application for benefits is exempt from subsection (1)~~((g))~~ (f) and ~~((h))~~ (g) of this section.

**Sec. 7.** RCW 50A.04.040 and 2017 3rd sp.s. c 5 s 7 are each amended to read as follows:

(1) Benefits provided under this ~~((chapter))~~ title shall be paid periodically and promptly, except when an employer contests a period of family or medical leave. The department must send the first benefit payment to the employee within fourteen calendar days after the first properly completed weekly application is received by the department. Subsequent payments must be sent at least biweekly thereafter. If the employer contests an initial application for family or medical leave benefits, the employer must notify the employee and the department in a manner prescribed by the commissioner within eighteen days of receipt of notice from the department of the employee's filing of an application for benefits, as provided under RCW 50A.04.195 (as recodified by this act). Failure to timely contest an initial application shall constitute a waiver of objection to the family or medical leave application. Any inquiry which requires the employee's response in order to continue benefits uninterrupted or unmodified shall provide a reasonable time period in which to respond and include a clear and prominent statement of the deadline for responding and consequences of failing to respond.

(2) If an employee has received one or more benefit payments under this ~~((chapter))~~ title, is in continued claim status, and his or her eligibility for benefits is questioned by the department or contested by the employer, the employee will be conditionally paid benefits without delay for any periods for which the employee files a claim for benefits, until and unless the employee has been provided adequate notice and an opportunity to be heard. The employee's right to retain such payments is conditioned upon the department's finding the employee to be eligible for such payments.

(a) At the employee's request, the department may hold conditional payments until the question of eligibility has been resolved.

(b) Payments will be issued for any benefits withheld under (a) of this subsection if the department determines the employee is eligible for benefits.

(c) If it is determined that the employee is ineligible for the weeks paid conditionally, the overpayment cannot be waived and must be repaid.

(3) The department must develop, in rule, a process by which an employer may contest an initial application for family or medical leave benefits.

**Sec. 8.** RCW 50A.04.045 and 2017 3rd sp.s. c 5 s 5 are each amended to read as follows:

(1) An employee is not entitled to paid family or medical leave benefits under this ~~((chapter))~~ title:

(a) For any absence occasioned by the willful intention of the employee to bring about injury to or the sickness of the employee or another, or resulting from any injury or sickness sustained in the perpetration by the employee of an illegal act;

(b) For any family or medical leave commencing before the employee becomes qualified for benefits under this ~~((chapter))~~ title;

(c) For an employee who is on suspension from his or her employment; or

(d) For any ~~((day in))~~ period of time during which ~~((a family or medical leave care recipient))~~ an employee works ~~((at least part of that day))~~ for remuneration or profit ~~((during the same or substantially similar working hours as those of the employer from which family or medical leave benefits are claimed, except that occasional scheduling adjustments with respect to secondary employments shall not prevent receipt of family or medical leave benefits)).~~

(2) An employer may ~~((allow))~~ offer supplemental benefit payments to an employee ((who has accrued)) on family or medical leave in addition to any paid family or medical leave benefits the employee is receiving. Supplemental benefit payments include, but are not limited to, vacation, sick, or other paid time off ((to choose whether: (a) To take such leave; or (b) not to take such leave and receive paid family or medical leave benefits, as provided in RCW 50A.04.020)). The choice to receive supplemental benefit payments lies with the employee. Nothing in this section shall be construed as requiring an employee to receive or an employer to provide supplemental benefit payments.

(3) An individual is disqualified for benefits for any week he or she has knowingly and willfully made a false statement or representation involving a material fact or knowingly and willfully failed to report a material fact and, as a result, has obtained or attempted to obtain any benefits under the provisions of this ~~((chapter))~~ title. An individual disqualified for benefits under this subsection (3) for the:

(a) First time is disqualified for an additional twenty-six weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifteen percent of the amount of benefits overpaid or deemed overpaid;

(b) Second time is also disqualified for an additional fifty-two weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of twenty-five percent of the amount of benefits overpaid or deemed overpaid;

(c) Third time and any time thereafter is also disqualified for an additional one hundred four weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifty percent of the amount of benefits overpaid or deemed overpaid.

(4) All penalties collected under this section must be deposited in the family and medical leave enforcement account created under RCW 50A.04.225 (as recodified by this act).

**Sec. 9.** RCW 50A.04.055 and 2017 3rd sp.s. c 5 s 80 are each amended to read as follows:

(1) If the internal revenue service determines that family or medical leave benefits under this ~~((chapter))~~ title are subject to federal income tax, the department must advise an employee filing a new application for benefits, at the time of filing such application, that:

(a) The internal revenue service has determined that benefits are subject to federal income tax;

(b) Requirements exist pertaining to estimated tax payments;



(c) The employee may elect to have federal income tax deducted and withheld from the employee's payment of benefits at the amount specified in the federal internal revenue code; and

(d) The employee is permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from benefits must remain in the family and medical leave insurance account until transferred to the federal taxing authority as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the federal internal revenue service pertaining to the deducting and withholding of income tax.

**Sec. 10.** RCW 50A.04.060 and 2017 3rd sp.s. c 5 s 30 are each amended to read as follows:

If an employee (~~(discloses that he or she)~~) owes child support obligations under RCW 50A.04.035 (as recodified by this act) and the department determines that the employee is qualified for benefits, the department shall notify the applicable state or local child support enforcement agency and deduct and withhold an amount from benefits in a manner consistent with RCW 50.40.050. Consistent with RCW 50A.04.035(1)(c) (as recodified by this act), the department may verify (~~(delinquent)~~) child support obligations with the department of social and health services.

**Sec. 11.** RCW 50A.04.065 and 2017 3rd sp.s. c 5 s 32 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this ~~(chapter)~~ title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable eligibility period for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, conditional payment, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience. An overpayment waived under this subsection shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same

extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days' notice, using a method by which the mailing can be tracked or the delivery can be confirmed, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed within five days of its filing with the clerk to the person(s) mentioned in the warrant using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For premium purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of paid family or medical leave benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the paid family and medical leave fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any premiums due for paid family and medical leave insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer that shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50A.04.155 (as recodified by this act).

(5) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50A.04.045 (as recodified by this act) and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(6) Any penalties and interest collected pursuant to this section must be deposited into the family and medical leave enforcement account.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities.

**Sec. 12.** RCW 50A.04.070 and 2017 3rd sp.s. c 5 s 71 are each amended to read as follows:

Whenever an employee of an employer who is qualified for benefits under this ~~((chapter))~~ title is absent from work to provide family leave, or take medical leave for more than seven consecutive days, the employer shall provide the employee with a written statement of the employee's rights under this ~~((chapter))~~ title in a form prescribed by the commissioner. The statement must be provided to the employee within five business days after the employee's seventh consecutive day of absence due to family or medical leave, or within five business days after the employer has received notice that the employee's absence is due to family or medical leave, whichever is later.

**Sec. 13.** RCW 50A.04.075 and 2017 3rd sp.s. c 5 s 75 are each amended to read as follows:

Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the commissioner, setting forth excerpts from, or summaries of, the pertinent provisions of this ~~((chapter))~~ title and information pertaining to the filing of a complaint. Any employer that willfully violates this section may be subject to a civil penalty of not more than one hundred dollars for each separate offense. Any penalties collected by the department under this section shall be deposited into the family and medical leave enforcement account.

**Sec. 14.** RCW 50A.04.080 and 2017 3rd sp.s. c 5 s 33 are each amended to read as follows:

(1) In the form and at the times specified in this ((chapter)) title and by the commissioner, an employer shall make reports, furnish information, and collect and remit premiums as required by this ((chapter)) title to the department. If the employer is a temporary help company that provides employees on a temporary basis to its customers, the temporary help company is considered the employer for purposes of this section.

(2)(a) An employer must keep at the employer's place of business a record of employment, for a period of six years, from which the information needed by the department for purposes of this ((chapter)) title may be obtained. This record shall at all times be open to the inspection of the commissioner.

(b) Information obtained under this ((chapter)) title from employer records is confidential and not open to public inspection, other than to public employees in the performance of their official duties. However, an interested party shall be supplied with information from employer records to the extent necessary for the proper presentation of the case in question. An employer may authorize inspection of the employer's records by written consent.

(3) The requirements relating to the collection of family and medical leave premiums are as provided in this ((chapter)) title. Before issuing a warning letter, the department shall enforce the collection of premiums through conference and conciliation. These requirements apply to:

(a) An employer that fails under this ((chapter)) title to make the required reports, or fails to remit the full amount of the premiums when due;

(b) An employer that willfully makes a false statement or misrepresentation regarding a material fact, or willfully fails to report a material fact, to avoid making the required reports or remitting the full amount of the premiums when due under this ((chapter)) title;

(c) A successor in the manner specified in RCW 50A.04.125 (as recodified by this act); and

(d) An officer, member, or owner having control or supervision of payment and/or reporting of family and medical leave premiums, or who is charged with the responsibility for the filing of returns, in the manner specified in RCW 50A.04.090 (as recodified by this act).

(4) Notwithstanding subsection (3) of this section, appeals are governed by RCW 50A.04.500 (as recodified by this act).

**Sec. 15.** RCW 50A.04.085 and 2017 3rd sp.s. c 5 s 72 are each amended to read as follows:

(1) It is unlawful for any employer to:

(a) Interfere with, restrain, or deny the exercise of, or the attempt to exercise, any valid right provided under this ((chapter)) title; or

(b) Discharge or in any other manner discriminate against any employee for opposing any practice made unlawful by this ((chapter)) title.

(2) It is unlawful for any person to discharge or in any other manner discriminate against any employee because the employee has:

(a) Filed any complaint, or has instituted or caused to be instituted any proceeding, under or related to this ((chapter)) title;

(b) Given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this ((chapter)) title;

or

(c) Testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this (~~chapter~~) title.

**Sec. 16.** RCW 50A.04.090 and 2017 3rd sp.s. c 5 s 68 are each amended to read as follows:

(1) An employer who willfully fails to make the required reports is subject to penalties as follows: (a) For the second occurrence, the penalty is seventy-five dollars; (b) for the third occurrence, the penalty is one hundred fifty dollars; and (c) for the fourth occurrence and for each occurrence thereafter, the penalty is two hundred fifty dollars.

(2) An employer who willfully fails to remit the full amount of the premiums when due is liable, in addition to the full amount of premiums due and amounts assessed as interest under RCW 50A.04.140 (as recodified by this act), to a penalty equal to the premiums and interest.

(3) Any penalties under this section shall be deposited into the family and medical leave enforcement account.

(4) For the purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

(5) The department shall enforce the collection of penalties through conference and conciliation.

(6) These penalties may be appealed as provided in RCW 50A.04.500 through 50A.04.595 (as recodified by this act).

**Sec. 17.** RCW 50A.04.095 and 2017 3rd sp.s. c 5 s 73 are each amended to read as follows:

Upon complaint by an employee, the commissioner shall investigate to determine if there has been compliance with (~~this chapter~~) RCW 50A.04.085 (as recodified by this act) and the related rules (adopted under this chapter). The department will issue a determination including the findings of the investigation and whether a violation may have occurred. Determinations are appealable under chapter 50A.-- RCW (the new chapter created in section 93 of this act). If the investigation indicates that a violation may have occurred, a hearing (~~must~~) may be held if requested by an interested party in accordance with chapter 34.05 RCW. The commissioner must issue a written determination including the commissioner's findings after the hearing. A judicial appeal from the commissioner's determination may be taken in accordance with chapter 34.05 RCW.

**Sec. 18.** RCW 50A.04.100 and 2017 3rd sp.s. c 5 s 74 are each amended to read as follows:

Any employer who violates RCW 50A.04.085 (as recodified by this act) is liable for damages equal to:

(1) The amount of:

(a) Any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(b) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to wages or salary for the employee for up to sixteen weeks, or eighteen weeks if the employee experiences a serious health condition with a pregnancy that results in incapacity.

(2)(a) The interest on the amount described in subsection (1) of this section calculated at the prevailing rate; and

(b) For a willful violation, an additional amount as liquidated damages equal to the sum of the amount described in subsection (1) of this section and the interest described in this subsection (2). For purposes of this section, "willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

**Sec. 19.** RCW 50A.04.105 and 2017 3rd sp.s. c 5 s 10 are each amended to read as follows:

(1) For benefits payable beginning January 1, 2020, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this (~~chapter~~) title for an initial period of not less than three years and subsequent periods of not less than one year immediately following a period of coverage. Those electing coverage under this section must elect coverage for both family leave and medical leave and are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50A.04.115 (as recodified by this act). The self-employed person must file a notice of election in writing with the department, in a manner as required by the department in rule. The self-employed person is eligible for family and medical leave benefits after working eight hundred twenty hours in the state during the qualifying period following the date of filing the notice.

(2) A self-employed person who has elected coverage may withdraw from coverage within thirty days after the end of each period of coverage, or at such other times as the commissioner may adopt by rule, by filing a notice of withdrawal in writing with the commissioner, such withdrawal to take effect not sooner than thirty days after filing the notice with the commissioner.

(3) The department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation shall be effective no later than thirty days from the date of the notice in writing advising the self-employed person of the cancellation.

(4) Those electing coverage are considered employers or employees where the context so dictates.

(5) For the purposes of this section, "independent contractor" means an individual excluded from employment under RCW 50A.04.010(7)(b) (ii) and (iii) (as recodified by this act).

(6) In developing and implementing the requirements of this section, the department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies may include, but are not limited to, requiring that payments be made in a manner and at intervals unique to the elective coverage program.

(7) The department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

**Sec. 20.** RCW 50A.04.110 and 2018 c 141 s 2 are each amended to read as follows:

A federally recognized tribe may elect coverage under RCW 50A.04.105 (as recodified by this act). The department shall adopt rules to implement this section.

**Sec. 21.** RCW 50A.04.115 and 2017 3rd sp.s. c 5 s 8 are each amended to read as follows:

(1)(a) Beginning January 1, 2019, the department shall assess for each individual in employment with an employer and for each individual electing coverage a premium based on the amount of the individual's wages subject to subsection (4) of this section.

(b) The premium rate for family leave benefits shall be equal to one-third of the total premium rate.

(c) The premium rate for medical leave benefits shall be equal to two-thirds of the total premium rate.

(2) For calendar year 2022 and thereafter, the commissioner shall determine the percentage of paid claims related to family leave benefits and the percentage of paid claims related to medical leave benefits and adjust the premium rates set in subsection (1)(b) and (c) of this section by the proportional share of paid claims.

(3)(a) Beginning January 1, 2019, and ending December 31, 2020, the total premium rate shall be four-tenths of one percent of the individual's wages subject to subsection (4) of this section.

(b) For family leave premiums, an employer may deduct from the wages of each employee up to the full amount of the premium required.

(c) For medical leave premiums, an employer may deduct from the wages of each employee up to forty-five percent of the full amount of the premium required.

(d) An employer may elect to pay all or any portion of the employee's share of the premium for family leave or medical leave benefits, or both.

(4) The commissioner must annually set a maximum limit on the amount of wages that is subject to a premium assessment under this section that is equal to the maximum wages subject to taxation for social security as determined by the social security administration.

(5)(a) Employers with fewer than fifty employees employed in the state are not required to pay the employer portion of premiums for family and medical leave.

(b) If an employer with fewer than fifty employees elects to pay the premiums, the employer is then eligible for assistance under RCW 50A.04.230 (as recodified by this act).

(6) For calendar year 2021 and thereafter, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year. The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical leave insurance account by total covered wages paid by employers and those electing coverage. The division shall be carried to the fourth decimal place with the remaining fraction disregarded unless it amounts to five hundred-thousandths or more, in which case the fourth decimal place shall be rounded to the next higher digit. If the account balance ratio is:

(a) Zero to nine hundredths of one percent, the premium is six tenths of one percent of the individual's wages;

(b) One tenth of one percent to nineteen hundredths of one percent, the premium is five tenths of one percent of the individual's wages;

(c) Two tenths of one percent to twenty-nine hundredths of one percent, the premium is four tenths of one percent of the individual's wages;

(d) Three tenths of one percent to thirty-nine hundredths of one percent, the premium is three tenths of one percent of the individual's wages;

(e) Four tenths of one percent to forty-nine hundredths of one percent, the premium is two tenths of one percent of the individual's wages; or

(f) Five tenths of one percent or greater, the premium is one tenth of one percent of the individual's wages.

(7) Beginning January 1, 2021, if the account balance ratio calculated in subsection (6) of this section is below five hundredths of one percent, the commissioner must assess a solvency surcharge at the lowest rate necessary to provide revenue to pay for the administrative and benefit costs of family and medical leave, for the calendar year, as determined by the commissioner. The solvency surcharge shall be at least one-tenth of one percent and no more than six-tenths of one percent and be added to the total premium rate for family and medical leave benefits.

(8)(a) The employer must collect from the employees the premiums and any surcharges provided under this section through payroll deductions and remit the amounts collected to the department.

(b) In collecting employee premiums through payroll deductions, the employer shall act as the agent of the employees and shall remit the amounts to the department as required by this (~~chapter~~) title.

(c) On September 30th of each year, the department shall average the number of employees reported by an employer over the last four completed calendar quarters to determine the size of the employer for the next calendar year for the purposes of this section and RCW 50A.04.230 (as recodified by this act).

(9) Premiums shall be collected in the manner and at such intervals as provided in this (~~chapter~~) title and directed by the department.

(10) Premiums collected under this section are placed in trust for the employees and employers that the program is intended to assist.

(11) A city, code city, town, county, or political subdivision may not enact a charter, ordinance, regulation, rule, or resolution:

(a) Creating a paid family or medical leave insurance program that alters or amends the requirements of this (~~chapter~~) title for any private employer;

(b) Providing for local enforcement of the provisions of this (~~chapter~~) title;

or

(c) Requiring private employers to supplement duration of leave or amount of wage replacement benefits provided under this (~~chapter~~) title.

**Sec. 22.** RCW 50A.04.120 and 2017 3rd sp.s. c 5 s 9 are each amended to read as follows:

(1) An employer may file an application with the department for a conditional waiver for the payment of family and medical leave premiums, assessed under RCW 50A.04.115 (as recodified by this act), for any employee who is:

(a) Physically based outside of the state;

(b) Employed in the state on a limited or temporary work schedule; and



(c) Not expected to be employed in the state for eight hundred twenty hours or more in a qualifying period.

(2) The department must approve an application that has been signed by both the employee and employer verifying their belief that the conditions in this subsection will be met during the qualifying period.

(3) If the employee exceeds the eight hundred twenty hours or more in a ~~((qualifying))~~ period of four consecutive complete calendar quarters, the conditional waiver expires and the employer and employee will be responsible for their shares of all premiums that would have been paid during ~~((the qualifying))~~ this period ~~((in which the employee exceeded the eight hundred twenty hours))~~ had the waiver not been granted. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this ~~((chapter))~~ title as if the premiums were originally paid.

**Sec. 23.** RCW 50A.04.125 and 2017 3rd sp.s. c 5 s 67 are each amended to read as follows:

Whenever any employer quits business, or sells out, exchanges, or otherwise disposes of the employer's business or stock of goods, any premiums payable under this ~~((chapter))~~ title shall become immediately due and payable, and the employer shall, within ten days, make a return and pay the premiums due; and any person who becomes a successor to such business shall become liable for the full amount of the premiums and withhold from the purchase price a sum sufficient to pay any premiums due from the employer until such time as the employer produces a receipt from the employment security department showing payment in full of any premiums due or a certificate that no premium is due and, if such premium is not paid by the employer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of premiums, and the payment thereof by such successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the employer. A successor may not be liable for any premiums due from the person from whom that person has acquired a business or stock of goods if that person gives written notice to the employment security department of such acquisition and no assessment is issued by the department within one hundred eighty days of receipt of such notice against the former operator of the business and a copy thereof mailed to such successor.

**Sec. 24.** RCW 50A.04.145 and 2017 3rd sp.s. c 5 s 60 are each amended to read as follows:

If the amount of premiums, interest, or penalties assessed by the commissioner by order and notice of assessment provided in this ~~((chapter))~~ title is not paid within ten days after the service or mailing of the order and notice of assessment, the commissioner or his or her duly authorized representative may collect the amount stated in said assessment by the distraint, seizure, and sale of the property, goods, chattels, and effects of said delinquent employer. There shall be exempt from distraint and sale under this section such goods and property as are exempt from execution under the laws of this state.

**Sec. 25.** RCW 50A.04.160 and 2017 3rd sp.s. c 5 s 63 are each amended to read as follows:

Whenever any order and notice of assessment or jeopardy assessment has become final in accordance with the provisions of this (~~chapter~~) title the commissioner may file with the clerk of any county within the state a warrant in the amount of the notice of assessment plus interest, penalties, and a filing fee under RCW 36.18.012(10). The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the employer mentioned in the warrant, the amount of the tax, interest, penalties, and filing fee and the date when such warrant was filed. The aggregate amount of such warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. Such warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant, and charged by the commissioner to the employer (~~or employing unit~~). A copy of the warrant shall be mailed to the employer (~~or employing unit~~) using a method by which the mailing can be tracked or the delivery can be confirmed within five days of filing with the clerk.

**Sec. 26.** RCW 50A.04.165 and 2017 3rd sp.s. c 5 s 56 are each amended to read as follows:

The claim of the employment security department for any premiums, interest, or penalties not paid when due, shall be a lien prior to all other liens or claims and on a parity with prior tax liens against all property and rights to property, whether real or personal, belonging to the employer. In order to avail itself of the lien hereby created, the department shall file with any county auditor where property of the employer is located a statement and claim of lien specifying the amount of delinquent premiums, interest, and penalties claimed by the department. From the time of filing for record, the amount required to be paid shall constitute a lien upon all property and rights to property, whether real or personal, in the county, owned by the employer or acquired by him or her. The lien shall not be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof has been filed with the county auditor. This lien shall be separate and apart from, and in addition to, any other lien or claim created by, or provided for in, this (~~chapter~~) title. When any such notice of lien has been so filed, the commissioner may release the same by filing a certificate of release when it shall appear that the amount of delinquent premiums, interest, and penalties have been paid, or when such assurance of payment shall be made as the commissioner may deem to be adequate. Fees for filing and releasing the lien provided herein may be charged to the employer and may be collected from the employer utilizing the remedies provided in this (~~chapter~~) title for the collection of premiums.

**Sec. 27.** RCW 50A.04.170 and 2017 3rd sp.s. c 5 s 57 are each amended to read as follows:

In the event of any distribution of an employer's assets pursuant to an order of any court, including any receivership, probate, legal dissolution, or similar proceeding, or in case of any assignment for the benefit of creditors, composition, or similar proceeding, premiums, interest, or penalties then or thereafter due shall be a lien upon all the assets of such employer. Said lien is prior to all other liens or claims except prior tax liens, other liens provided by this ((chapter)) title, and claims for remuneration for services of not more than two hundred fifty dollars to each claimant earned within six months of the commencement of the proceeding. The mere existence of a condition of insolvency or the institution of any judicial proceeding for legal dissolution or of any proceeding for distribution of assets shall cause such a lien to attach without action on behalf of the commissioner or the state. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, premiums, interest, or penalties then or thereafter due shall be entitled to such priority as provided in that act, as amended.

**Sec. 28.** RCW 50A.04.175 and 2017 3rd sp.s. c 5 s 64 are each amended to read as follows:

(1) If after due notice, any employer defaults in any payment of premiums, interest, or penalties, the amount due may be collected by civil action in the name of the state, and the employer adjudged in default shall pay the cost of such action. Any lien created by this ((chapter)) title may be foreclosed by decree of the court in any such action. Civil actions brought under this ((chapter)) title to collect premiums, interest, or penalties from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this ((chapter)) title, cases arising under the unemployment compensation laws of this state, and cases arising under the industrial insurance laws of this state.

(2) Any ((employing unit)) employer that is not a resident of this state and that exercises the privilege of having one or more individuals perform service for it within this state, and any resident ((employing unit)) employer that exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any action under this ((chapter)) title. In instituting such an action against any such ((employing unit)) employer the commissioner shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such ((employing unit)) employer, and shall be of the same force and validity as if served upon it personally within this state: PROVIDED, That the commissioner shall forthwith send notice of the service of such process or notice, together with a copy thereof, by registered mail, return receipt requested, to such ((employing unit)) employer at its last known address and such return receipt, the commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process filed in the court in which such action is pending.

**Sec. 29.** RCW 50A.04.185 and 2017 3rd sp.s. c 5 s 54 are each amended to read as follows:

The commissioner may compromise any claim for premiums, interest, or penalties due and owing from an employer, and any amount owed by an individual because of benefit overpayments existing or arising under this ((chapter)) title in any case where collection of the full amount due and owing, whether reduced to judgment or otherwise, would be against equity and good conscience. Whenever a compromise is made by the commissioner in the case of a claim for premiums, interest, or penalties, whether reduced to judgment or otherwise, there shall be placed on file in the department a statement of the amount of premiums, interest, and penalties imposed by law and claimed due, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement. Whenever a compromise is made by the commissioner in the case of a claim of a benefit overpayment, whether reduced to judgment or otherwise, there shall be placed on file in the department a statement of the amount of the benefit overpayment, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement. If any such compromise is accepted by the commissioner, within such time as may be stated in the compromise or agreed to, such compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the matters agreed upon. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

**Sec. 30.** RCW 50A.04.195 and 2017 3rd sp.s. c 5 s 29 are each amended to read as follows:

(1) The department shall establish and administer the family and medical leave program and pay family and medical leave benefits as specified in this ((chapter)) title. The department shall adopt government efficiencies to improve administration and reduce costs. These efficiencies shall include, to the extent feasible, combined reporting and payment, with a single return, of premiums under this ((chapter)) title and contributions under chapter 50.24 RCW.

(2) The department shall establish procedures and forms for filing applications for benefits under this ((chapter)) title. The department shall notify the employer within five business days of an application being filed.

(3) The department shall use information sharing and integration technology to facilitate the disclosure of relevant information or records by the department, so long as an employee consents to the disclosure as required under RCW 50A.04.035 (as recodified by this act).

(4) Information contained in the files and records pertaining to an employee under this chapter are confidential and not open to public inspection, other than to public employees in the performance of their official duties, except as provided in chapter 50A.--- RCW (the new chapter created in section 84 of this act). ~~((However, the employee or an authorized representative of an employee may review the records or receive specific information from the records on the presentation of the signed authorization of the employee. An employer or the employer's duly authorized representative may review the records of an employee employed by the employer in connection with a pending application. At the department's discretion, other persons may review records when such~~

~~persons are rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter.)~~

(5) The department shall develop and implement an outreach program to ensure that employees who may be qualified to receive family and medical leave benefits under this ((chapter)) title are made aware of these benefits. Outreach information shall explain, in an easy to understand format, eligibility requirements, the application process, weekly benefit amounts, maximum benefits payable, notice and certification requirements, reinstatement and nondiscrimination rights, confidentiality, voluntary plans, and the relationship between employment protection, leave from employment, and wage replacement benefits under this ((chapter)) title and other laws, collective bargaining agreements, and employer policies. Outreach information shall be available in English and other primary languages as defined in RCW 74.04.025.

(6) The department is authorized to inspect and audit employer files and records relating to the family and medical leave program, including employer voluntary plans.

**Sec. 31.** RCW 50A.04.200 and 2017 3rd sp.s. c 5 s 28 are each amended to read as follows:

(1) The commissioner shall appoint an advisory committee to review issues and topics of interest related to this ((chapter)) title.

(2) The committee is composed of ten members: (a) Four members representing employees' interests in paid family and medical leave, each of whom shall be appointed from a list of at least four names submitted by a recognized statewide organization of employees; (b) four members representing employers, each of whom shall be appointed from a list of at least four names submitted by a recognized statewide organization of employers; and (c) two ex officio members, without a vote, one of whom shall represent the department and the other shall be the ombuds for the family and medical leave program. The member representing the department shall be the chair.

(3) The committee shall provide comment on department rule making, policies, implementation of this ((chapter)) title, utilization of benefits, and other initiatives, and study issues the committee determines to require its consideration.

(4) The members shall serve without compensation, but are entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may utilize such personnel and facilities of the department as it needs, without charge. All expenses of the committee must be paid by the family and medical leave insurance account.

**Sec. 32.** RCW 50A.04.205 and 2017 3rd sp.s. c 5 s 88 are each amended to read as follows:

(1) The commissioner shall establish an ombuds office for family and medical leave within the department. The ombuds shall be appointed by the governor and report directly to the commissioner of the department. The ombuds is available to all employers and employees in the state.

(2) The person appointed ombuds shall hold office for a term of six years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombuds only for neglect of duty,

misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term.

(3) The ombuds shall:

(a) Offer and provide information on family and medical leave to employers and employees;

(b) Act as an advocate for employers and employees in their dealings with the department;

(c) Identify, investigate, and facilitate resolution of disputes and complaints under this ((chapter)) title; and

(d) Refer complaints to the department when appropriate.

(4) The ombuds may conduct surveys of employees. Survey questions and results are confidential and not subject to public disclosure.

(5) The ombuds is not liable for the good faith performance of responsibilities under this ((chapter)) title.

(6) All of the ombuds' records and files relating to any complaint or investigation made pursuant to carrying out the ombuds' duties and the identities of complainants, witnesses, workers, or employers shall remain confidential unless disclosure is authorized by the complainant worker or his or her guardian or legal representative or the employer or the employer's legal representative. No disclosures may be made outside the office of the ombuds without the consent of the named witnesses or complainants unless the disclosure is made without the identity of any of the individuals being disclosed.

**Sec. 33.** RCW 50A.04.215 and 2017 3rd sp.s. c 5 s 85 are each amended to read as follows:

The commissioner shall adopt rules as necessary to implement this ((chapter)) title.

**Sec. 34.** RCW 50A.04.220 and 2017 3rd sp.s. c 5 s 82 are each amended to read as follows:

(1) The family and medical leave insurance account is created in the custody of the state treasurer. All receipts from premiums imposed under this ((chapter)) title must be deposited in the account. Expenditures from the account may be used only for the purposes of the family and medical leave program. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW. An appropriation is required for administrative expenses, but not for benefit payments.

(2) Money deposited in the account shall remain a part of the account until expended pursuant to the requirements of this ((chapter)) title or transferred in accordance with subsection (3) of this section. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriations act or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the family and medical leave insurance account.

(3) Money shall be transferred from the family and medical leave insurance account and deposited in the unemployment trust fund solely for the repayment of benefits not charged to employers as defined in RCW 50.29.021(4)(a)(vii).

The commissioner shall direct the transfer, which must occur on or before the cut-off date as defined in RCW 50.29.010.

(4) Money transferred as provided in subsection (3) of this section for the repayment of benefits not charged to employers shall be deposited in the unemployment compensation fund and shall remain a part of the unemployment compensation fund until expended pursuant to RCW 50.16.030. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

**Sec. 35.** RCW 50A.04.225 and 2017 3rd sp.s. c 5 s 76 are each amended to read as follows:

The family and medical leave enforcement account is created in the custody of the state treasurer. Any money in the family leave insurance account created in section 19, chapter 357, Laws of 2007 is transferred to the account created in this section. Any penalties and interest collected under RCW 50A.04.045 (as recodified by this act), 50A.04.065 (as recodified by this act), 50A.04.075 (as recodified by this act), 50A.04.080 (as recodified by this act), 50A.04.090 (as recodified by this act), 50A.04.140 (as recodified by this act), and 50A.04.655 (as recodified by this act) shall be deposited into the account and shall be used only for the purposes of administering and enforcing this (~~chapter~~) title. Only the commissioner 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. 36.** RCW 50A.04.230 and 2017 3rd sp.s. c 5 s 84 are each amended to read as follows:

(1) The legislature recognizes that while family leave and medical leave benefit both employees and employers, there may be costs that disproportionately impact small businesses. To equitably balance the risks among employers, the legislature intends to assist small businesses with the costs of an employee's use of family or medical leave.

(2) Employers with one hundred fifty or fewer employees and employers with fifty or fewer employees who are assessed all premiums under RCW 50A.04.115(5)(b) (as recodified by this act) may apply to the department for a grant under this section.

(3)(a) An employer may receive a grant of three thousand dollars if the employer hires a temporary worker to replace an employee on family or medical leave for a period of seven days or more.

(b) For an employee's family or medical leave, an employer may receive a grant of up to one thousand dollars as reimbursement for significant additional wage-related costs due to the employee's leave.

(c) An employer may receive a grant under (a) or (b) of this subsection, but not both, except that an employer who received a grant under (b) of this subsection may receive a grant of the difference between the grant awarded under (b) of this subsection and three thousand dollars if the employee on leave

extended the leave beyond the leave initially planned and the employer hired a temporary worker for the employee on leave.

(4) An employer may apply for a grant no more than ten times per calendar year and no more than once for each employee on leave.

(5) To be eligible for a grant, the employer must provide the department written documentation showing the temporary worker hired or significant wage-related costs incurred are due to an employee's use of family or medical leave.

(6) The department must assess an employer with fewer than fifty employees who receives a grant under this section for all premiums for three years from the date of receipt of a grant.

(7) The grants under this section shall be funded from the family and medical leave insurance account.

(8) The commissioner shall adopt rules as necessary to implement this section.

(9) For the purposes of this section, the number of employees must be calculated as provided in RCW 50A.04.115 (as recodified by this act).

(10) An employer who has an approved voluntary plan is not eligible to receive a grant under this section.

**Sec. 37.** RCW 50A.04.235 and 2017 3rd sp.s. c 5 s 87 are each amended to read as follows:

Nothing in this ~~((chapter))~~ title requires any party to a collective bargaining agreement in existence on October 19, 2017, to reopen negotiations of the agreement or to apply any of the rights and responsibilities under this ~~((chapter))~~ title unless and until the existing agreement is reopened or renegotiated by the parties or expires.

**Sec. 38.** RCW 50A.04.240 and 2017 3rd sp.s. c 5 s 69 are each amended to read as follows:

(1) Leave from employment under this ~~((chapter))~~ title is in addition to leave from employment during which benefits are paid or are payable under Title 51 RCW or other applicable federal or state industrial insurance laws.

(2) In any week in which an employee is eligible to receive benefits under Title 50 or 51 RCW, or other applicable federal or state unemployment compensation, industrial insurance, or disability insurance laws, the employee is disqualified from receiving family or medical leave benefits under this ~~((chapter))~~ title.

**Sec. 39.** RCW 50A.04.245 and 2017 3rd sp.s. c 5 s 70 are each amended to read as follows:

If required by the federal family and medical leave act, as it existed on October 19, 2017, during any period of family or medical leave taken under this ~~((chapter))~~ title, the employer shall maintain any existing health benefits of the employee in force for the duration of such leave as if the employee had continued to work from the date the employee commenced family or medical leave until the date the employee returns to employment. If the employer and employee share the cost of the existing health benefits, the employee remains responsible for the employee's share of the cost. This section does not apply to an employee who is not in employment for an employer at the time of filing an application for benefits.



**Sec. 40.** RCW 50A.04.250 and 2017 3rd sp.s. c 5 s 79 are each amended to read as follows:

(1) Leave under this ((chapter)) title and leave under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017) is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth.

(2) Unless otherwise expressly permitted by the employer, leave taken under this ((chapter)) title must be taken concurrently with any leave taken under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017).

**Sec. 41.** RCW 50A.04.255 and 2017 3rd sp.s. c 5 s 77 are each amended to read as follows:

Nothing in this ((chapter)) title shall be construed to modify or affect any state or local law prohibiting discrimination on the basis of race, creed, religion, color, national origin, families with children, sex, marital status, sexual orientation including gender expression or identity, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

**Sec. 42.** RCW 50A.04.260 and 2017 3rd sp.s. c 5 s 78 are each amended to read as follows:

(1) Nothing in this ((chapter)) title shall be construed to discourage employers from:

(a) Adopting or retaining leave policies more generous than any policies that comply with the requirements under this ((chapter)) title; or

(b) Making ((payments to supplement the)) supplemental benefit payments as provided under RCW ((50A.04.020)) 50A.04.045 (as recodified by this act) to an employee on paid family or medical leave.

(2) Any agreement by an individual to waive, release, or commute his or her rights under this ((chapter)) title is void as against public policy.

(3) After January 1, 2020, subject to RCW 50A.04.235 (as recodified by this act), an employee's rights under this ((chapter)) title may not be diminished by a collective bargaining agreement or employer policy.

**Sec. 43.** RCW 50A.04.265 and 2017 3rd sp.s. c 5 s 81 are each amended to read as follows:

This ((chapter)) title does not create a continuing entitlement or contractual right. The legislature reserves the right to amend or repeal all or part of this ((chapter)) title at any time, and a benefit or other right granted under this ((chapter)) title exists subject to the legislature's power to amend or repeal this ((chapter)) title. There is no vested private right of any kind against such amendment or repeal.

**Sec. 44.** RCW 50A.04.505 and 2017 3rd sp.s. c 5 s 36 are each amended to read as follows:

(1) When an order and notice of assessment has been served upon or mailed to a delinquent employer, the employer may within thirty days file an appeal with the department, stating that the assessment is unjust or incorrect and requesting a hearing. The appeal must set forth the reasons why the assessment is objected to and the amount of premiums, if any, which the employer admits to

be due. If no appeal is filed, the assessment shall be conclusively deemed to be just and correct except that in such case, and in cases where payment of premiums, interest, or penalties has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of an appeal on a disputed assessment with the administrative law judge stays the distraint and sale proceeding provided for in this ((chapter)) title until a final decision has been made, but the filing of an appeal shall not affect the right of the commissioner to perfect a lien, as provided by this ((chapter)) title, upon the property of the employer. The filing of a petition on a disputed assessment stays the accrual of interest and penalties on the disputed premiums until a final decision is made.

(2) Within thirty days after notice of denial of refund or adjustment has been mailed or delivered, whichever is the earlier, to an employer, the employer may file an appeal with the department for a hearing unless assessments have been appealed from and have become final. The employer shall set forth the reasons why such hearing should be granted and the amount which the employer believes should be adjusted or refunded. If no appeal is filed within said thirty days, the determination of the commissioner as stated in the notice shall be final.

**Sec. 45.** RCW 50A.04.510 and 2017 3rd sp.s. c 5 s 53 are each amended to read as follows:

(1) A determination of amount of benefits potentially payable under this ((chapter)) title is not a basis for appeal. However, the determination is subject to request by the employee on family and medical leave for redetermination by the commissioner at any time within one year from the date of delivery or mailing of such determination, or any redetermination thereof. A redetermination shall be furnished to the employee in writing and provide the basis for appeal.

(2) A determination of denial of benefits becomes final, in the absence of timely appeal therefrom. The commissioner may redetermine such determinations at any time within one year from delivery or mailing to correct an error in identity, omission of fact, or misapplication of law with respect to the facts.

(3) A determination of allowance of benefits becomes final, in the absence of a timely appeal therefrom. The commissioner may redetermine such allowance at any time within two years following the eligibility period in which such allowance was made in order to recover any benefits for which recovery is provided under this ((chapter)) title.

(4) A redetermination may be made at any time: (a) To conform to a final court decision applicable to either an initial determination or a determination of denial or allowance of benefits; (b) in the event of a back pay award or settlement affecting the allowance of benefits; or (c) in the case of misrepresentation or willful failure to report a material fact. Written notice of any such redetermination shall be promptly given by mail or delivered to such interested parties as were notified of the initial determination or determination of denial or allowance of benefits and any new interested party or parties who, pursuant to such rule as the commissioner may adopt, would be an interested party.

**Sec. 46.** RCW 50A.04.520 and 2017 3rd sp.s. c 5 s 38 are each amended to read as follows:

In any proceeding before an administrative law judge involving an appeal from a disputed order and notice of assessment or a disputed denial of refund or adjustment, the administrative law judge, after affording the parties a reasonable opportunity for hearing, shall affirm, modify, or set aside the notice of assessment or denial of refund. The parties shall be duly notified of such decision together with the reasons, which shall be deemed to be the final decision unless within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this ((chapter)) title relating to review by the commissioner.

**Sec. 47.** RCW 50A.04.525 and 2018 c 141 s 4 are each amended to read as follows:

(1) In any proceeding before an administrative law judge involving a dispute of an employee's initial determination, claim for waiting period credit or claim for benefits, all matters and provisions of this ((chapter)) title relating to the employee's initial determination, or right to receive such credit or benefits for the period in question, shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal in single employee cases.

(2) In any proceeding before an administrative law judge involving an employee's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice in accordance with RCW 34.05.434.

(3) In any proceeding involving an appeal relating to benefit determinations or benefit claims, the administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the department. The parties shall be duly notified of such decision together with the reasons, which shall be deemed to be the final decision unless, within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to RCW 50A.04.535 (as recodified by this act).

**Sec. 48.** RCW 50A.04.540 and 2018 c 141 s 5 are each amended to read as follows:

After having acquired jurisdiction for review, the commissioner shall review the proceedings in question. Prior to rendering a decision, the commissioner may order the taking of additional evidence by an administrative law judge to be made a part of the record in the case. Upon the basis of evidence submitted to the administrative law judge and such additional evidence as the commissioner may order to be taken, the commissioner shall render a decision in writing affirming, modifying, or setting aside the decision of the administrative law judge. Alternatively, the commissioner may order further proceedings to be held before the administrative law judge, upon completion of which the administrative law judge shall issue a new decision in writing affirming, modifying, or setting aside the previous decision of the administrative law judge. The new decision of the administrative law judge may be appealed as provided under RCW 50A.04.535 (as recodified by this act). The commissioner shall mail the decision of the commissioner to the interested parties at their last known addresses.

**Sec. 49.** RCW 50A.04.550 and 2017 3rd sp.s. c 5 s 48 are each amended to read as follows:

Any finding, determination, conclusion, declaration, or final order made by the commissioner, or his or her representative or delegate, or by an appeal tribunal, administrative law judge, reviewing officer, or other agent of the department for the purposes of this ((chapter)) title, shall not be conclusive, nor binding, nor admissible as evidence in any separate action outside the scope of this ((chapter)) title between an employee and the employee's present or prior employer before an arbitrator, court, or judge of this state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts or was reviewed pursuant to RCW 50A.04.565 (as recodified by this act).

**Sec. 50.** RCW 50A.04.555 and 2017 3rd sp.s. c 5 s 41 are each amended to read as follows:

For good cause shown the administrative law judge or the commissioner may waive the time limitations for administrative appeals or petitions set forth in this ((chapter)) title.

**Sec. 51.** RCW 50A.04.560 and 2017 3rd sp.s. c 5 s 47 are each amended to read as follows:

(1) In all court proceedings under or pursuant to this ((chapter)) title the decision of the commissioner shall be prima facie correct, and the burden of proof shall be upon the party attacking the decision.

(2) If the court determines that the commissioner has acted within the commissioner's power and has correctly construed the law, the decision of the commissioner shall be confirmed; otherwise, the decision shall be reversed or modified. In case of a modification or reversal the superior court shall refer the decision to the commissioner with an order directing the commissioner to proceed in accordance with the findings of the court.

(3) Whenever any order and notice of assessment shall have become final in accordance with the provisions of this ((chapter)) title, the court shall upon application of the commissioner enter a judgment in the amount provided for in the order and notice of assessment, and the judgment shall have and be given the same effect as if entered pursuant to a civil action instituted in the court.

**Sec. 52.** RCW 50A.04.565 and 2018 c 141 s 6 are each amended to read as follows:

Judicial review of a decision of the commissioner involving the review of a decision of an administrative law judge under this ((chapter)) title may be had only in accordance with the procedural requirements of RCW 34.05.452.

**Sec. 53.** RCW 50A.04.580 and 2017 3rd sp.s. c 5 s 49 are each amended to read as follows:

An individual shall not be charged fees of any kind in any proceeding involving the employee's application for initial determination, or claim for waiting period credit, or claim for benefits, under this ((chapter)) title by the commissioner or his or her representatives, or by an appeal tribunal, or any court, or any officer thereof. Any employee in any such proceeding before the commissioner or any appeal tribunal may be represented by counsel or other duly authorized agent who shall neither charge nor receive a fee for such services in excess of an amount found reasonable by the officer conducting such proceeding.

**Sec. 54.** RCW 50A.04.590 and 2017 3rd sp.s. c 5 s 52 are each amended to read as follows:

(1) Whenever any appeal is taken from any decision of the commissioner to any court, all expenses and costs incurred by the commissioner, including court reporter costs and attorneys' fees and all costs taxed against such commissioner, shall be paid out of the family and medical leave enforcement account.

(2) Neither the commissioner nor the state shall be charged any fee for any service rendered in connection with litigation under this ((chapter)) title by the clerk of any court.

**Sec. 55.** RCW 50A.04.595 and 2017 3rd sp.s. c 5 s 51 are each amended to read as follows:

The remedies provided in this ((chapter)) title for determining the justness or correctness of assessments, refunds, adjustments, or claims shall be exclusive and no court shall entertain any action to enjoin an assessment or require a refund or adjustment except in accordance with the provisions of this ((chapter)) title. Matters which may be determined by the procedures set out in this ((chapter)) title shall not be the subject of any declaratory judgment.

**Sec. 56.** RCW 50A.04.600 and 2018 c 141 s 7 are each amended to read as follows:

(1) An employer may apply to the commissioner for approval of a voluntary plan for the payment of either family leave benefits or medical leave benefits, or both. The application must be submitted on a form and in the manner as prescribed by the commissioner in rule. The fee for the department's review of each application for approval of a voluntary plan is two hundred fifty dollars.

(2) The benefits payable as indemnification for loss of wages under any voluntary plan must be separately stated and designated separately and distinctly in the plan from other benefits, if any.

(3) Neither an employee nor his or her employer are liable for any premiums for benefits covered by an approved voluntary plan.

(4) ~~((Except as provided in this section, an employee covered by an approved voluntary plan at the commencement of a period of family leave or a medical leave benefit period is not entitled to benefits from the state program. Benefits payable to that employee is the liability of the approved voluntary plan under which the employee was covered at the commencement of the family leave or medical leave benefit period, regardless of any subsequent serious health condition or family leave which may occur during the benefit period.))~~ An employee may only receive payment of benefits for family leave, medical leave, or both from one approved plan at a time. An employee who qualifies for benefits and is simultaneously covered by more than one plan under this title will receive benefits under the plan for which the employee has worked the most hours during the employee's qualifying period. The commissioner must adopt rules to allow benefits or prevent duplication of benefits to employees simultaneously covered by one or more approved voluntary plans and the state program.

(5) The commissioner must approve any voluntary plan as to which the commissioner finds that there is at least one employee in employment and all of the following exist:

(a) The benefits afforded to the employees must be at least equivalent to the benefits the employees are entitled to as part of the state's family and medical leave program, including but not limited to the duration of leave. The employer must offer at least one-half of the length of leave as provided in RCW 50A.04.020(3) (as recodified by this act) with pay and provide a monetary payment in an amount equal to or higher than the total amount of monetary benefits the employee would be entitled to receive as part of the state-run program. The employer may offer the same duration of leave and monetary benefits as offered under the state program.

(b) The sick leave an employee is entitled to under RCW 49.46.210 is in addition to the employer's provided benefits and is in addition to any family and medical leave benefits.

(c) The plan is available to all of the eligible employees of the employer employed in this state, including future employees.

(d) The employer has agreed to make the payroll deductions required, if any, and transmit the proceeds to the department for any portions not collected for the voluntary plan.

(e) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the commissioner finds that the employer has given notice of withdrawal from the plan in a manner specified by the commissioner in rule. The plan may be withdrawn by the employer on the date of any law increasing the benefit amounts or the date of any change in the rate of employee premiums, if notice of the withdrawal from the plan is transmitted to the commissioner not less than thirty days prior to the date of that law or change. If the plan is not withdrawn, it must be amended to conform to provide the increased benefit amount or change in the rate of the employee's premium on the date of the increase or change.

(f) The amount of payroll deductions from the wages of an employee in effect for any voluntary plan may not exceed the maximum payroll deduction for that employee as authorized under RCW 50A.04.115 (as recodified by this act). The deductions may not be increased on other than an anniversary of the effective date of the plan, except to the extent that any increase in the deductions from the wages of an employee do not exceed the maximum rate authorized under the state program.

(g) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, is eligible for the plan benefits if the employee meets the requirements of RCW 50A.04.015 (as recodified by this act) and has worked at least three hundred forty hours for the employer during the twelve months immediately preceding the date leave will commence.

(h) The voluntary plan provides that an employee of an employer with a voluntary plan for either family leave or medical leave, or both, who takes leave under the voluntary plan is entitled to the employment protection provisions contained in RCW 50A.04.025 (as recodified by this act) if the employee has worked for the employer for at least nine months and nine hundred sixty-five hours during the twelve months immediately preceding the date leave will commence.

(i) The voluntary plan provides that the employer maintains the employee's existing health benefits as provided under RCW 50A.04.245 (as recodified by this act).

(6)(a) The department must conduct a review of the expenses incurred in association with the administration of the voluntary plans during the first three years after implementation and report its findings to the legislature.

(b) The review must include an analysis of the adequacy of the fee in subsection (1) of this section to cover the department's administrative expenses related to reviewing and approving or denying the applications and administering appeals related to voluntary plans. The review must include an estimate of the next year's projected administrative costs related to the voluntary plans. The legislature shall adjust the fee in subsection (1) of this section as needed to ensure the department's administrative expenses related to the voluntary plans are covered by the fee.

(c) If the current receipts from the fee in subsection (1) of this section are inadequate to cover the department's administrative expenses related to the voluntary plans, the department may use funds from the family and medical leave insurance account under RCW 50A.04.220 (as recodified by this act) to pay for these expenses.

**Sec. 57.** RCW 50A.04.610 and 2017 3rd sp.s. c 5 s 22 are each amended to read as follows:

(1) To be eligible for any family and medical leave, an employee must be in employment for eight hundred twenty hours during the qualifying period, by an employer with a voluntary plan or an employer utilizing the state family and medical leave plan. An employee qualifies for benefits under an employer's voluntary plan ~~((only))~~ after the employee works at least three hundred forty hours for the current employer.

(2) An employer with an approved voluntary plan may waive the requirements in subsection (1) of this section, in whole or in part, to allow an employee to be immediately eligible for coverage under the employer's voluntary plan.

(3) An employee who had coverage under the state plan retains coverage under the state plan until such time as the employee is qualified for coverage under the new employer's voluntary plan.

~~((3))~~ (4) An employee who was eligible for benefits under a voluntary plan is immediately eligible for benefits under a new employer's voluntary plan.

**Sec. 58.** RCW 50A.04.615 and 2017 3rd sp.s. c 5 s 23 are each amended to read as follows:

(1) An employee is no longer covered by an approved voluntary plan if family leave or the employee's medical leave occurred after the employment relationship with the voluntary plan employer ends, or if the commissioner terminates a voluntary plan.

(2) An employee who has ceased to be covered by an approved voluntary plan is, if otherwise eligible, immediately entitled to benefits from the state program to the same extent as though there had been no exemption as provided in this ~~((chapter))~~ title.

**Sec. 59.** RCW 50A.04.625 and 2017 3rd sp.s. c 5 s 17 are each amended to read as follows:

An employer may assume all or a greater part of the cost of the voluntary plan than required under the state program. An employer may deduct from the wages of an employee covered by the voluntary plan, for the purpose of providing the benefits specified in this ((chapter)) title, an amount not in excess of that which would be required if the employee was not covered by the plan.

**Sec. 60.** RCW 50A.04.645 and 2017 3rd sp.s. c 5 s 27 are each amended to read as follows:

(1) The commissioner must approve any amendment to a voluntary plan adjusting the provisions thereof, as to periods after the effective date of the amendment, when the commissioner finds: (a) That the plan, as amended, will conform to the standards set forth in this ((chapter)) title; and (b) that notice of the amendment has been delivered to the employees at least ten days prior to the approval.

(2) Nothing contained in this section is intended to deny or limit the right of the commissioner to adopt supplementary rules regarding voluntary plans.

**Sec. 61.** RCW 50A.04.650 and 2017 3rd sp.s. c 5 s 21 are each amended to read as follows:

(1) The commissioner may terminate any voluntary plan if the commissioner finds that there is risk that the benefits accrued or that will accrue will not be paid or for other good cause shown.

(2) The commissioner must give notice of the commissioner's intention to terminate a plan to the employer at least ten days before taking any final action. The notice must state the effective date and the reason for the termination.

(3) On the effective date of the termination of a plan by the commissioner, all moneys in the plan, including moneys paid by the employer, moneys paid by the employees, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys, must be remitted to the department and deposited into the family and medical leave insurance account.

(4) The employer may, within ten days from mailing or personal service of the notice, file an appeal in the time, manner, method, and procedure provided in RCW 50A.04.500 (as recodified by this act).

(5) The payment of benefits and the transfer of moneys in the voluntary plan may not be delayed during an employer's appeal of the termination of a voluntary plan.

(6) If an employer's voluntary plan has been terminated by the commissioner the employer is not eligible to apply for approval of another voluntary plan for a period of three years.

**Sec. 62.** RCW 50A.04.655 and 2017 3rd sp.s. c 5 s 20 are each amended to read as follows:

(1) An employer of a voluntary plan found to have violated this ((chapter)) title shall be assessed the following monetary penalties:

(a) One thousand dollars for the first violation; and

(b) Two thousand dollars for the second and subsequent violations.

(2) The commissioner shall waive collection of the penalty if the employer corrects the violation within thirty days of receiving a notice of the violation and the notice is for a first violation.



(3) The commissioner may waive collection of any penalties if the commissioner determines the violation to be an inadvertent error by the employer.

(4) Monetary penalties collected under this section shall be deposited in the family and medical leave enforcement account.

(5) The department shall enforce the collection of penalties through conference and conciliation.

(6) These penalties may be appealed as provided in RCW 50A.04.500 through 50A.04.595 (as recodified by this act).

**Sec. 63.** RCW 50A.04.660 and 2017 3rd sp.s. c 5 s 24 are each amended to read as follows:

An employer may appeal any adverse decision by the department ~~((regarding the))~~ related to voluntary plans. ~~((and))~~ An employee may appeal any adverse decision by an employer ~~((s denial of liability upon the claim of an employee for family or medical leave benefits under an approved plan, in the manner specified under))~~ or the employer's agent related to voluntary plans. Appeals are subject to RCW 50A.04.500 (as recodified by this act).

**Sec. 64.** RCW 50A.04.900 and 2017 3rd sp.s. c 5 s 101 are each amended to read as follows:

If any part of this ~~((chapter))~~ title is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this ~~((chapter))~~ title is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this ~~((chapter))~~ title. Rules adopted under this ~~((chapter))~~ title must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

**Sec. 65.** RCW 50.29.021 and 2017 3rd sp.s. c 5 s 83 are each amended to read as follows:

(1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer, except as provided in subsection (5) of this section.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (3)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(g) The forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be charged to the experience rating account of any contribution paying employer.

(h) With respect to claims where the minimum amount payable weekly is increased to one hundred fifty-five dollars pursuant to RCW 50.20.1201(3), benefits paid that exceed the benefits that would have been paid if the minimum amount payable weekly had been calculated pursuant to RCW 50.20.120 shall not be charged to the experience rating account of any contribution paying employer.

(i) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in

training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

(j) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution paying base year employer, except employers as provided in subsection (6) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster;

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who qualified for two consecutive unemployment claims where wages were attributable to at least one employer who employed the individual in both base years. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(vi) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035; or

(vii) Worked for an employer for twenty weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under ~~(this chapter)~~ Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection (4)(a)(vii) applies to claims with an effective date on or after January 1, 2020.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(5) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be

charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(6) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b)(i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or

(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents.

**Sec. 66.** RCW 26.23.060 and 2000 c 86 s 4 and 2000 c 29 s 1 are each reenacted and amended to read as follows:

(1) The division of child support may issue a notice of payroll deduction:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve a notice of payroll deduction upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW or from the paid family and medical leave program under Title 50A RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner

prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or unemployment compensation benefits. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the division of child support within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives unemployment compensation benefits from the employment security department, whether the employer or employment security department anticipates paying earnings or unemployment compensation benefits and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving unemployment compensation benefits from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the notice of payroll deduction in the case where the notice was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the division of child support, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the notice. For the employment security department, the notice of payroll deduction shall remain in effect until released by the division of child support or until the court enters an order terminating the notice.

(11) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

**Sec. 67.** RCW 43.20A.080 and 1997 c 58 s 1005 are each amended to read as follows:

(1) The department shall provide the employment security department quarterly with the names and social security numbers of all clients in the WorkFirst program and any successor state welfare program.

(2) The information provided by the employment security department under RCW 50.13.060 for statistical analysis and welfare program evaluation purposes may be used only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. Through individual matches with accessed employment security department confidential employer wage files, only aggregate, statistical, group level data shall be reported. Data sharing by the employment security department may be extended to include the office of financial management and other such governmental entities with oversight responsibility for this program.

(3) The department and other agencies of state government shall protect the privacy of confidential personal data supplied under RCW 50.13.060 consistent with federal law, chapters 50.13 and 50A.--- (the new chapter created in section 84 of this act) RCW, and the terms and conditions of a formal data-sharing agreement between the employment security department and agencies of state government, however the misuse or unauthorized use of confidential data supplied by the employment security department is subject to the penalties in RCW 50.13.080 and section 81 of this act.

**Sec. 68.** RCW 42.56.410 and 2005 c 274 s 421 are each amended to read as follows:

Records maintained by the employment security department and subject to chapter 50.13 or 50A.--- (the new chapter created in section 84 of this act) RCW if provided to another individual or organization for operational, research, or evaluation purposes are exempt from disclosure under this chapter.

**NEW SECTION. Sec. 69.** Any assignment, pledge, or encumbrance of any right to benefits that are or may become due or payable under this title is void. Such rights to benefits are exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts, except as provided in RCW 50A.04.060 (as recodified by this act). Benefits received by any employee, so long as they are not commingled with other funds of the recipient, are exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished to such employee or the employee's spouse or dependents during the time when such individual was receiving family or medical leave. Any waiver of any exemption provided for in this section is void.

**NEW SECTION. Sec. 70.** (1) If information provided to the department by another governmental agency is held private and confidential by state or federal law, the department may not release such information unless otherwise provided in this title.

(2) Information provided to the department by another governmental entity conditioned upon privacy and confidentiality under a provision of law is to be held private and confidential according to the agreement between the department and the other governmental agency unless otherwise provided in this title.

(3) The department may hold private and confidential information obtained for statistical analysis, research, or study purposes if the information was supplied voluntarily, conditioned upon maintaining confidentiality of the information.

(4) Persons requesting disclosure of information held by the department under subsection (1) or (2) of this section shall request such disclosure from the agency providing the information to the department rather than from the department.

**NEW SECTION. Sec. 71.** (1) Any information or records concerning an individual or employer obtained by the department pursuant to the administration of this title shall be private and confidential, except as otherwise provided in this chapter or RCW 50A.04.205 (as recodified by this act).

(2) This chapter does not create a rule of evidence.

**NEW SECTION. Sec. 72.** The commissioner has the authority to adopt, amend, or rescind rules interpreting and implementing this chapter.

**NEW SECTION. Sec. 73.** (1) An individual shall have access to all records and information concerning that individual held by the department unless the information is exempt from disclosure under RCW 42.56.410.

(2) An employer shall have access to:

(a) Its own records relating to any claim or determination for family or medical leave benefits by an individual;

(b) Records and information relating to a decision to allow or deny benefits if the decision is based on material information provided by the employer; and

(c) Records and information related to that employer's premium assessment.

(3) The department may disclose records and information deemed confidential under this chapter to a third party acting on behalf of an individual

or employer that would otherwise be eligible to receive records under subsection (1) or (2) of this section when the department receives a signed release from the individual or employer. The release must include a statement:

- (a) Specifically identifying the information that is to be disclosed;
- (b) That state government files will be accessed to obtain that information;
- (c) Of the specific purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and
- (d) Indicating all the parties who may receive the information disclosed.

**NEW SECTION. Sec. 74.** (1) Any interested party, as defined by rule, in a proceeding before the appeal tribunal or commissioner shall have access to any information or records deemed private and confidential under this chapter if the information or records are material to the issues in that proceeding.

(2) No decision by the commissioner or the appeals tribunal shall be deemed private and confidential under this chapter unless the decision is based on information obtained in a closed hearing.

**NEW SECTION. Sec. 75.** (1) Information or records deemed private and confidential under this chapter shall be available to parties to judicial or formal administrative proceedings only upon a written finding by the presiding officer that the need for the information or records in the proceeding outweighs any reasons for the privacy and confidentiality of the information or records.

(2) Information or records deemed private and confidential under this chapter shall not be available in discovery proceedings unless the court in which the action has been filed has made the finding in subsection (1) of this section. A judicial or administrative subpoena directed to the department must contain this finding. A subpoena for records or information under this section must be submitted in a manner prescribed by the department.

**NEW SECTION. Sec. 76.** (1) The department may enter into data-sharing contracts and may disclose records and information deemed confidential to state or local government agencies under this chapter only if permitted under subsection (2) of this section and section 78 of this act. A state or local government agency must need the records or information for an official purpose and must also provide:

(a) An application in writing to the department for the records or information containing a statement of the official purposes for which the state or local government agency needs the information or records and specifically identify the records or information sought from the department; and

(b) A written verification of the need for the specific information from the director, commissioner, chief executive, or other official of the requesting state or local government agency either on the application or on a separate document.

(2) The department may disclose information or records deemed confidential under this chapter to the following state or local government agencies:

(a) To the department of social and health services to identify child support obligations;

(b) To the department of revenue to determine potential tax liability or employer compliance with registration and licensing requirements;



(c) To the department of labor and industries to compare records or information to detect improper or fraudulent claims;

(d) To the office of financial management for the purpose of conducting periodic salary or fringe benefit studies pursuant to law;

(e) To the office of the state treasurer and any financial or banking institutions deemed necessary by the office of the state treasurer and the department for the proper administration of funds;

(f) To the office of the attorney general for purposes of legal representation;

(g) To a county clerk for the purpose of RCW 9.94A.760 if requested by the county clerk's office;

(h) To the office of administrative hearings for the purpose of administering the administrative appeal process;

(i) To the department of enterprise services for the purpose of agency administration and operations; and

(j) To the consolidated technology services agency for the purpose of enterprise technology support.

**NEW SECTION. Sec. 77.** The state legislature may have access to information or records deemed private and confidential under this chapter if the following requirements are met:

(1) The legislature, a legislative committee, a legislator, or a staff member finds that the information or records are necessary and for official purposes; and

(2) The individuals and organizations whose information is contained within the confidential records requested must provide a signed disclosure that manifests the individual's or organization's informed consent to the disclosure of the records or information to the legislature, legislative committee, legislator, or staff member.

**NEW SECTION. Sec. 78.** The department may disclose information or records deemed confidential under this chapter to the federal internal revenue service if the information is deemed necessary by the department to administer RCW 50A.04.055 (as recodified by this act).

**NEW SECTION. Sec. 79.** Nothing in this chapter shall be construed as limiting or restricting the effect of RCW 42.56.070(8).

**NEW SECTION. Sec. 80.** The family and medical leave program of the department may disclose information or records deemed private and confidential under this chapter to any private person or organization, and by extension, the agents of any private person or organization, when the disclosure is necessary to permit private contracting parties to assist in the operation, management, and implementation of the program in instances where certain departmental functions may be delegated to private parties to increase the department's efficiency or quality of service to the public. The private person or organization shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as department employees.

**NEW SECTION. Sec. 81.** (1) All private persons, government agencies, and organizations authorized to receive information from the department under this chapter have an affirmative obligation to take all reasonable actions necessary to prevent the disclosure of confidential information.

(2) The disclosure of any records or information by a private person, government agency, or organization that obtained the records or information from the department under this chapter is prohibited unless expressly permitted by this chapter.

(3) If misuse or an unauthorized disclosure of confidential records or information occurs, all parties who are aware of the violation must inform the department immediately and must take all reasonably available actions to rectify the disclosure to the department's standards.

(4) The misuse or unauthorized release of records or information deemed private and confidential under this chapter by any private person, government agency, or organization to which access is permitted by this section shall subject the person, government agency, or organization to a civil penalty of up to twenty thousand dollars in 2018 and annually adjusted by the department based on changes in the United States consumer price index for all urban consumers. Other applicable sanctions under state and federal law also apply.

(5) Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the department's family and medical leave enforcement account. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.

**NEW SECTION. Sec. 82.** Where the family and medical leave program of the department contracts to provide services to other governmental or private organizations, the department may disclose to those organizations information or records deemed private and confidential that have been acquired in the performance of the department's obligations under the contracts.

**NEW SECTION. Sec. 83.** Nothing in this chapter shall prevent the disclosure of information or records deemed private and confidential under this chapter if all details identifying an individual or employer are deleted so long as the information or records cannot be foreseeably combined with other publicly available information to reveal the identity of an individual or employer.

**NEW SECTION. Sec. 84.** Sections 70 through 83 of this act constitute a new chapter in Title 50A RCW.

**NEW SECTION. Sec. 85.** RCW 50A.04.005, 50A.04.010, 50A.04.195, 50A.04.200, 50A.04.205, 50A.04.210, 50A.04.215, 50A.04.220, 50A.04.225, 50A.04.235, 50A.04.255, 50A.04.265, and 50A.04.900 are each recodified as sections in a new chapter in Title 50A RCW.

**NEW SECTION. Sec. 86.** RCW 50A.04.105, 50A.04.110, 50A.04.115, 50A.04.120, and 50A.04.125 are each recodified as sections in a new chapter in Title 50A RCW.

**NEW SECTION. Sec. 87.** Section 69 of this act is codified and RCW 50A.04.015, 50A.04.020, 50A.04.030, 50A.04.035, 50A.04.040, 50A.04.045, 50A.04.050, 50A.04.055, 50A.04.060, 50A.04.065, 50A.04.240, and 50A.04.250 are each recodified as sections in a new chapter in Title 50A RCW.

**NEW SECTION. Sec. 88.** RCW 50A.04.230 is recodified as a section in a new chapter in Title 50A RCW.

**NEW SECTION. Sec. 89.** RCW 50A.04.600, 50A.04.605, 50A.04.610, 50A.04.615, 50A.04.620, 50A.04.625, 50A.04.630, 50A.04.635, 50A.04.640,

50A.04.645, 50A.04.650, 50A.04.655, 50A.04.660, and 50A.04.665 are each recodified as sections in a new chapter in Title 50A RCW.

NEW SECTION. Sec. 90. RCW 50A.04.025, 50A.04.245, and 50A.04.260 are each recodified as sections in a new chapter in Title 50A RCW.

NEW SECTION. Sec. 91. RCW 50A.04.085, 50A.04.095, and 50A.04.100 are each recodified as sections in a new chapter in Title 50A RCW.

NEW SECTION. Sec. 92. RCW 50A.04.090, 50A.04.130, 50A.04.135, 50A.04.140, 50A.04.145, 50A.04.150, 50A.04.155, 50A.04.160, 50A.04.165, 50A.04.170, 50A.04.175, 50A.04.180, 50A.04.185, and 50A.04.190 are each recodified as sections in a new chapter in Title 50A RCW.

NEW SECTION. Sec. 93. RCW 50A.04.500, 50A.04.505, 50A.04.510, 50A.04.515, 50A.04.520, 50A.04.525, 50A.04.530, 50A.04.535, 50A.04.540, 50A.04.545, 50A.04.550, 50A.04.555, 50A.04.560, 50A.04.565, 50A.04.570, 50A.04.575, 50A.04.580, 50A.04.585, 50A.04.590, and 50A.04.595 are each recodified as sections in a new chapter in Title 50A RCW.

NEW SECTION. Sec. 94. RCW 50A.04.070, 50A.04.075, and 50A.04.080 are each recodified as sections in a new chapter in Title 50A RCW.

Passed by the House March 1, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 3, 2019.

Filed in Office of Secretary of State April 4, 2019.

## CHAPTER 14

[Second Substitute House Bill 1497]

### FOUNDATIONAL PUBLIC HEALTH SERVICES

AN ACT Relating to foundational public health services; amending RCW 43.70.512; adding a new section to chapter 43.70 RCW; and repealing RCW 43.70.514, 43.70.516, 43.70.520, 43.70.522, and 43.70.580.

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

**Sec. 1.** RCW 43.70.512 and 2007 c 259 s 60 are each amended to read as follows:

(1) Protecting the public's health across the state is a fundamental responsibility of the state(~~(--With any new state funding of the public health system as appropriated for the purposes of sections 60 through 65 of this act, the state expects that measurable benefits will be realized to the health of the residents of Washington. A transparent process that shows the impact of increased public health spending on performance measures related to the health outcomes in subsection (2) of this section is of great value to the state and its residents. In addition, a well-funded public health system is expected to become a more integral part of the state's emergency preparedness system.~~

~~(2) Subject to the availability of amounts appropriated for the purposes of sections 60 through 65 of this act, distributions to local health jurisdictions shall deliver the following outcomes:~~

- ~~(a) Create a disease response system capable of responding at all times;~~
- ~~(b) Stop the increase in, and reduce, sexually transmitted disease rates;~~
- ~~(c) Reduce vaccine preventable diseases;~~

~~(d) Build capacity to quickly contain disease outbreaks;~~  
~~(e) Decrease childhood and adult obesity and types I and II diabetes rates, and resulting kidney failure and dialysis;~~  
~~(f) Increase childhood immunization rates;~~  
~~(g) Improve birth outcomes and decrease child abuse;~~  
~~(h) Reduce animal to human disease rates; and~~  
~~(i) Monitor and protect drinking water across jurisdictional boundaries.~~  
 (3) Benchmarks for these outcomes shall be drawn from the national healthy people 2010 goals, other reliable data sets, and any subsequent national goals)) and is accomplished through the governmental public health system. This system is comprised of the state department of health, state board of health, local health jurisdictions, sovereign tribal nations, and Indian health programs.

(2)(a) The legislature intends to define a limited statewide set of core public health services, called foundational public health services, which the governmental public health system is responsible for providing in a consistent and uniform way in every community in Washington. These services are comprised of foundational programs and cross-cutting capabilities.

(b) These governmental public health services should be delivered in ways that maximize the efficiency and effectiveness of the overall system, make best use of the public health workforce and evolving technology, and address health equity.

(c) Funding for the governmental public health system must be restructured to support foundational public health services. In restructuring, there must be efforts to both reinforce current governmental public health system capacity and implement service delivery models allowing for system stabilization and transformation.

NEW SECTION. Sec. 2. A new section is added to chapter 43.70 RCW to read as follows:

(1) With any state funding of foundational public health services, the state expects that measurable benefits will be realized to the health of communities in Washington as a result of the improved capacity of the governmental public health system. Close coordination and sharing of services are integral to increasing system capacity.

(2)(a) Funding for foundational public health services shall be appropriated to the office of financial management. The office of financial management may only allocate funding to the department if the department, after consultation with federally recognized Indian tribes pursuant to chapter 43.376 RCW, jointly certifies with a state association representing local health jurisdictions and the state board of health, to the office of financial management that they are in agreement on the distribution and uses of state foundational public health services funding across the public health system.

(b) If joint certification is provided, the department shall distribute foundational public health services funding according to the agreed-upon distribution and uses. If joint certification is not provided, appropriations for this purpose shall lapse.

(3) By October 1, 2020, the department, in partnership with sovereign tribal nations, local health jurisdictions, and the state board of health, shall report on:

(a) Service delivery models, and a plan for further implementation of successful models;

(b) Changes in capacity of the governmental public health system; and

(c) Progress made to improve health outcomes.

(4) For purposes of this section:

(a) "Foundational public health services" means a limited statewide set of defined public health services within the following areas:

(i) Control of communicable diseases and other notifiable conditions;

(ii) Chronic disease and injury prevention;

(iii) Environmental public health;

(iv) Maternal, child, and family health;

(v) Access to and linkage with medical, oral, and behavioral health services;

(vi) Vital records; and

(vii) Cross-cutting capabilities, including:

(A) Assessing the health of populations;

(B) Public health emergency planning;

(C) Communications;

(D) Policy development and support;

(E) Community partnership development; and

(F) Business competencies.

(b) "Governmental public health system" means the state department of health, state board of health, local health jurisdictions, sovereign tribal nations, and Indian health programs located within Washington.

(c) "Indian health programs" means tribally operated health programs, urban Indian health programs, tribal epidemiology centers, the American Indian health commission for Washington state, and the Northwest Portland area Indian health board.

(d) "Local health jurisdictions" means a public health agency organized under chapter 70.05, 70.08, or 70.46 RCW.

(e) "Service delivery models" means a systematic sharing of resources and function among state and local governmental public health entities, sovereign tribal nations, and Indian health programs to increase capacity and improve efficiency and effectiveness.

**NEW SECTION. Sec. 3.** The following acts or parts of acts are each repealed:

(1) RCW 43.70.514 (Public health—Definitions) and 2007 c 259 s 61;

(2) RCW 43.70.516 (Public health—Department's duties) and 2007 c 259 s 62;

(3) RCW 43.70.520 (Public health services improvement plan—Performance measures) and 2007 c 259 s 64 & 1993 c 492 s 467;

(4) RCW 43.70.522 (Public health performance measures—Assessing the use of funds—Secretary's duties) and 2007 c 259 s 65; and

(5) RCW 43.70.580 (Public health improvement plan—Funds—Performance-based contracts—Rules—Evaluation and report) and 1995 c 43 s 3.

Passed by the House March 5, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 3, 2019.

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## CHAPTER 15

[Engrossed House Bill 1074]

## TOBACCO AND VAPOR PRODUCTS--LEGAL AGE FOR SALES

AN ACT Relating to protecting youth from tobacco products and vapor products by increasing the minimum legal age of sale of tobacco and vapor products; amending RCW 26.28.080, 70.155.005, 70.155.010, 70.345.010, 70.155.020, 70.345.070, 70.345.100, 70.155.030, 70.345.080, and 70.155.120; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 26.28.080 and 2016 1st sp.s. c 38 s 1 are each amended to read as follows:

(1) ~~((Every))~~ A person who sells or gives, or permits to be sold or given, to any person under the age of ~~((eighteen))~~ twenty-one years any cigar, cigarette, cigarette paper or wrapper, tobacco in any form, or a vapor product is guilty of a gross misdemeanor.

(2) It is not a defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) For the purposes of this section, "vapor product" has the same meaning as provided in RCW 70.345.010.

**Sec. 2.** RCW 70.155.005 and 1993 c 507 s 1 are each amended to read as follows:

(1) The legislature finds that chapter .... Laws of 2019 (this act) furthers the public health, safety, and welfare by reducing youth access to addictive and harmful products.

(2) While present state law prohibits the sale and distribution of tobacco and vapor products to ~~((minors))~~ youth under the age of eighteen, youth obtain ~~((tobacco))~~ these products with ease. ~~((Availability and lack of enforcement put tobacco products in the hands of youth.))~~

(3) The legislature recognizes that many people who purchase cigarettes for minors are between the ages of eighteen to twenty. By decreasing the number of eligible buyers in high school, raising the minimum legal age to sell tobacco and vapor products will decrease the access of students to tobacco products. According to the 2014 healthy youth survey, forty-one percent of tenth graders say it is "sort of easy" to "very easy" to get cigarettes. Nationally, among youth who smoke, more than twice as many get their cigarettes from social sources than from a store or vending machine.

(4) The legislature recognizes that ninety-five percent of smokers start by the age of twenty-one.

(5) The legislature recognizes that jurisdictions across the country are increasing the age of sale for tobacco products to twenty-one. As of October 2018, six states (California, Hawaii, Maine, Massachusetts, New Jersey, and Oregon), the District of Columbia, the territory of Guam, and more than three hundred fifty cities and counties in twenty-one states have raised the minimum legal sales age to twenty-one. Approximately thirty percent of the population of the United States is covered by such a policy.

(6) The legislature recognizes the scientific report issued by the national institute of medicine, one of the most prestigious scientific authorities in the United States, which predicted that increasing the age of sale for tobacco

products in the United States to twenty-one will significantly reduce the number of adolescents and young adults who start smoking, reduce deaths from smoking, and immediately improve the health of adolescents, young adults, young mothers, and their children.

(7) The legislature recognizes the national institute of medicine report predicted increasing the tobacco sale age will make the greatest difference among those ages fifteen to seventeen, who will no longer be able to pass for legal age and will have a harder time getting tobacco products from older classmates and friends. The national institute of medicine report also predicted raising the minimum age for the sale of tobacco products in the United States to twenty-one will, over time, reduce the smoking rate by about twelve percent and smoking-related deaths by ten percent.

(8) The legislature recognizes scientific study of the brain is increasingly showing that the brain continues to be highly vulnerable to addictive substances until age twenty-five. Nicotine adversely affects the development of the cerebral cortex and hippocampus in adolescents.

(9) The legislature recognizes that a strategy of increasing the minimum legal age for alcohol was highly successful in reducing adverse effects of alcohol consumption. A national drinking age of twenty-one resulted in reduced alcohol consumption among youth, decreased alcohol dependence, and has led to significant reductions in drunk driving fatalities.

(10) The legislature recognizes that if the age of sale is raised to twenty-one, eighteen to twenty year olds will likely substitute other in-store purchases for cigarettes. The legislature recognizes that when Needham, Massachusetts raised the smoking age to twenty-one in 2005, no convenience stores went out of business.

(11) The legislature recognizes that reducing the youth smoking rate will save lives and reduce health care costs. Every year, two billion eight hundred ten million dollars in health care costs can be directly attributed to tobacco use in Washington. Smoking-caused government expenditures cost every Washington household eight hundred twenty-one dollars per year.

(12) Federal law requires states to enforce laws prohibiting sale and distribution of tobacco products to minors in a manner that can reasonably be expected to reduce the extent to which the products are available to minors. It is imperative to effectively reduce the sale, distribution, and availability of tobacco products to minors.

**Sec. 3.** RCW 70.155.010 and 2009 c 278 s 1 are each amended to read as follows:

The definitions set forth in RCW 82.24.010 (~~(shall)~~) apply to this chapter. In addition, for the purposes of this chapter, unless otherwise required by the context:

(1) "Board" means the Washington state liquor (~~(control)~~) and cannabis board.

(2) "Internet" means any computer network, telephonic network, or other electronic network.

(3) (~~"Minor"~~) refers to an individual who is less than eighteen years old.

(4) "Sample" means a tobacco product distributed to members of the general public at no cost or at nominal cost for product promotion purposes.

~~((5))~~ (4) "Sampling" means the distribution of samples to members of the public.

~~((6))~~ (5) "Tobacco product" means a product that contains tobacco and is intended for human use, including any product defined in RCW 82.24.010(2) or 82.26.010~~((4))~~ (21), except that for the purposes of RCW 70.155.140 only, "tobacco product" does not include cigars defined in RCW 82.26.010 as to which one thousand units weigh more than three pounds.

(6) "Vapor product" has the same meaning as defined in RCW 70.345.010.

**Sec. 4.** RCW 70.345.010 and 2016 1st sp.s. c 38 s 4 are each amended to read as follows:

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

(1) "Board" means the Washington state liquor and cannabis board.

(2) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing vapor products in this state.

(3) "Child care facility" has the same meaning as provided in RCW 70.140.020.

(4) "Closed system nicotine container" means a sealed, prefilled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(5) "Delivery sale" means any sale of a vapor product to a purchaser in this state where either:

(a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or

(b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

(6) "Delivery seller" means a person who makes delivery sales.

(7) "Distributor" means any person who:

(a) Sells vapor products to persons other than ultimate consumers; or

(b) Is engaged in the business of selling vapor products in this state and who brings, or causes to be brought, into this state from outside of the state any vapor products for sale.

(8) "Liquid nicotine container" means a package from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold soluble nicotine in any concentration. "Liquid nicotine container" does not include closed system nicotine containers.

(9) "Manufacturer" means a person who manufactures and sells vapor products.

~~((10))~~ ("Minor" refers to an individual who is less than eighteen years old.

~~((11))~~ "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the



state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

~~((42))~~ (11) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale.

~~((43))~~ (12) "Playground" means any public improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, including but not limited to any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

~~((44))~~ (13) "Retail outlet" means each place of business from which vapor products are sold to consumers.

~~((45))~~ (14) "Retailer" means any person engaged in the business of selling vapor products to ultimate consumers.

~~((46))~~ (15)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling vapor products, for advertising, promoting, or as a means of evading the provisions of this chapter.

~~((47))~~ (16) "School" has the same meaning as provided in RCW 70.140.020.

~~((48))~~ (17) "Self-service display" means a display that contains vapor products and is located in an area that is openly accessible to customers and from which customers can readily access such products without the assistance of a salesperson. A display case that holds vapor products behind locked doors does not constitute a self-service display.

~~((49))~~ (18) "Vapor product" means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

(a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) "Vapor product" does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(c) For purposes of this subsection ~~((49))~~ (18), "marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

**Sec. 5.** RCW 70.155.020 and 1993 c 507 s 3 are each amended to read as follows:

A person who holds a license issued under RCW 82.24.520 or 82.24.530 shall:

(1) Display the license or a copy in a prominent location at the outlet for which the license is issued; and

(2) Display a sign concerning the prohibition of tobacco sales to ~~((minors))~~ persons under the age of twenty-one.

Such sign shall:

(a) Be posted so that it is clearly visible to anyone purchasing tobacco products from the licensee;

(b) Be designed and produced by the department of health to read: "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER AGE ~~((48))~~ 21 IS STRICTLY PROHIBITED BY STATE LAW. ~~((IF YOU ARE UNDER 18, YOU COULD BE PENALIZED FOR PURCHASING A TOBACCO PRODUCT;))~~ PHOTO ID REQUIRED UPON REQUEST"; and

(c) Be provided free of charge by the liquor ~~((control))~~ and cannabis board.

**Sec. 6.** RCW 70.345.070 and 2016 1st sp.s. c 38 s 12 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person who holds a retailer's license issued under this chapter must display a sign concerning the prohibition of vapor product sales to ~~((minors))~~ persons under the age of twenty-one. Such sign must:

(a) Be posted so that it is clearly visible to anyone purchasing vapor products from the licensee;

(b) Be designed and produced by the department of health to read: "The sale of vapor products to persons under age ~~((eighteen))~~ twenty-one is strictly prohibited by state law. ~~((If you are under age eighteen, you could be penalized for purchasing a vapor product;))~~ Photo id required upon request;" and

(c) Be provided free of charge by the department of health.

(2) For persons also licensed under RCW 82.24.510 or 82.26.150, the board may issue a sign to read: "The sale of tobacco or vapor products to persons under age ~~((eighteen))~~ twenty-one is strictly prohibited by state law. ~~((If you are under age eighteen, you could be penalized for purchasing a tobacco or vapor product;))~~ Photo id required ~~((;))~~ upon request." The sign must be provided free of charge by the board.

(3) A person who holds a license issued under this chapter must display the license or a copy in a prominent location at the outlet for which the license is issued.

**Sec. 7.** RCW 70.345.100 and 2016 1st sp.s. c 38 s 19 are each amended to read as follows:

(1) No person may offer a tasting of vapor products to the general public unless:

(a) The person is a licensed retailer under RCW 70.345.020;

(b) The tastings are offered only within the licensed premises operated by the licensee and the products tasted are not removed from within the licensed premises by the customer;

(c) Entry into the licensed premises is restricted to persons ~~((eighteen))~~ twenty-one years of age or older;

(d) The vapor product being offered for tasting contains zero milligrams per milliliter of nicotine or the customer explicitly consents to a tasting of a vapor product that contains nicotine; and

(e) If the customer is tasting from a vapor device owned and maintained by the retailer, a disposable mouthpiece tip is attached to the vapor product being used by the customer for tasting or the vapor device is disposed of after each tasting.

(2) A violation of this section is a misdemeanor.

**Sec. 8.** RCW 70.155.030 and 1994 c 202 s 1 are each amended to read as follows:

(1) No person shall sell or permit to be sold any tobacco product through any device that mechanically dispenses tobacco products unless the device is located fully within premises from which ~~((minors))~~ persons under the age of twenty-one are prohibited or in industrial worksites where ~~((minors))~~ persons under the age of twenty-one are not employed and not less than ten feet from all entrance or exit ways to and from each premise.

(2) The board shall adopt rules that allow an exception to the requirement that a device be located not less than ten feet from all entrance or exit ways to and from a premise if it is architecturally impractical for the device to be located not less than ten feet from all entrance and exit ways.

**Sec. 9.** RCW 70.345.080 and 2017 c 210 s 1 are each amended to read as follows:

(1) No person may offer a vapor product for sale in an open, unsecured display that is accessible to the public without the intervention of a store employee.

(2) It is unlawful to sell or distribute vapor products from self-service displays.

(3) Retail establishments are exempt from subsections (1) and (2) of this section if ~~((minors))~~ persons under the age of twenty-one are not allowed in the store and such prohibition is posted clearly on all entrances.

**Sec. 10.** RCW 70.155.120 and 2016 1st sp.s. c 38 s 2 are each amended to read as follows:

(1) The youth tobacco and vapor products prevention account is created in the state treasury. All fees collected pursuant to RCW 82.24.520, 82.24.530, 82.26.160, and 82.26.170 and funds collected by the liquor and cannabis board from the imposition of monetary penalties shall be deposited into this account, except that ten percent of all such fees and penalties shall be deposited in the state general fund.

(2) Moneys appropriated from the youth tobacco and vapor products prevention account to the department of health shall be used by the department of health for implementation of this chapter, including collection and reporting of data regarding enforcement and the extent to which access to tobacco products and vapor products by youth has been reduced.

(3) The department of health shall enter into interagency agreements with the liquor and cannabis board to pay the costs incurred, up to thirty percent of available funds, in carrying out its enforcement responsibilities under this chapter. Such agreements shall set forth standards of enforcement, consistent with the funding available, so as to reduce the extent to which tobacco products and vapor products are available to individuals under the age of ~~((eighteen))~~ twenty-one. The agreements shall also set forth requirements for data reporting by the liquor and cannabis board regarding its enforcement activities.

(4) The department of health, the liquor and cannabis board, and the department of revenue shall enter into an interagency agreement for payment of the cost of administering the tobacco retailer licensing system and for the provision of quarterly documentation of tobacco wholesaler, retailer, and vending machine names and locations.

(5) The department of health shall, within up to seventy percent of available funds, provide grants to local health departments or other local community agencies to develop and implement coordinated tobacco and vapor product intervention strategies to prevent and reduce tobacco and vapor product use by youth.

NEW SECTION. Sec. 11. In recognition of the sovereign authority of tribal governments, the governor may seek government-to-government consultations with federally recognized Indian tribes regarding raising the minimum legal age of sale in compacts entered into pursuant to RCW 43.06.455, 43.06.465, and 43.06.466. The office of the governor shall report to the appropriate committees of the legislature regarding the status of such consultations no later than December 1, 2020.

NEW SECTION. Sec. 12. This act takes effect January 1, 2020.

NEW SECTION. Sec. 13. 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.

Passed by the House February 20, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 5, 2019.

Filed in Office of Secretary of State April 8, 2019.

## CHAPTER 16

[House Bill 1001]

### SERVICE CONTRACT PROVIDERS--FINANCIAL RESPONSIBILITY

AN ACT Relating to service contract providers; amending RCW 48.110.017, 48.110.030, 48.110.055, 48.110.130, and 48.110.902; and adding a new section to chapter 48.110 RCW.

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

**Sec. 1.** RCW 48.110.017 and 2013 c 117 s 2 are each amended to read as follows:

This chapter does not prohibit a service contract provider from covering, in whole or in part, residential water, sewer, plumbing, electrical, heating and cooling systems, utilities, or similar systems, including items intended to be attached to or installed in any real property, with or without coverage of appliances, or from sharing contract revenue with local governments or other third parties for endorsements and marketing services.

**Sec. 2.** RCW 48.110.030 and 2016 c 224 s 1 are each amended to read as follows:

(1) A person may not act as, or offer to act as, or hold himself or herself out to be a service contract provider in this state, nor may a service contract be sold to a consumer in this state, unless the service contract provider has a valid registration as a service contract provider issued by the commissioner.

(2) Applicants to be a service contract provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) All basic organizational documents of the service contract provider, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, bylaws, and other applicable documents, and all amendments to those documents;

(b) The identities of the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business, and, if more than fifty percent of the service contract provider's gross revenue is derived from the sale of service contracts, the identities of the service contract provider's directors and stockholders having beneficial ownership of ten percent or more of any class of securities;

(c)(i) For service contract providers relying on RCW 48.110.050(2) (a) or (b) or 48.110.075(2)(a) to assure the faithful performance of its obligations to service contract holders, the most recent audited annual financial statements, if available, or the most recent audited financial statements which prove that the applicant (~~is solvent~~) has and maintains a minimum net worth or stockholder's equity of two hundred thousand dollars or more calculated in accordance with section 6 of this act and the ability to pay its debts when debts become due. In lieu of submitting audited financial statements, a service contract provider relying on RCW 48.110.050(2)(a) or 48.110.075(2)(a) to assure the faithful performance of its obligations to service contract holders may comply with the requirements of this subsection (2)(c)(i) by submitting the most recent annual financial statements, if available, or the most recent financial statements of the applicant that are certified as accurate by two or more officers of the applicant; or

(ii) For service contract providers relying on RCW 48.110.050(2)(c) to assure the faithful performance of its obligations to service contract holders, the most recent audited annual financial statements, if available, or the most recent audited financial statements or form 10-K or form 20-F filed with the securities and exchange commission which prove that the applicant has and maintains a net worth or stockholder's equity of one hundred million dollars or more. However, if the service contract provider is relying on its parent company's net worth or stockholder's equity to meet the requirements of RCW 48.110.050(2)(c) and the service contract provider has provided the commissioner with a written guarantee by the parent company in accordance with RCW 48.110.050(2)(c), then the most recent audited annual financial statements, if available, or the most recent audited financial statements or form 10-K or form 20-F filed with the securities and exchange commission of the service contract provider's parent company must be filed and the applicant need not submit its own financial statements or demonstrate a minimum net worth or stockholder's equity; and

(d) An application fee of two hundred fifty dollars, which must be deposited into the general fund.

(3) Each registered service contract provider must appoint the commissioner as the service contract provider's attorney to receive service of legal process issued against the service contract provider in this state upon causes of action

arising within this state. Service upon the commissioner as attorney constitutes effective legal service upon the service contract provider.

(a) With the appointment the service contract provider must designate the person to whom the commissioner must forward legal process so served upon him or her.

(b) The appointment is irrevocable, binds any successor in interest or to the assets or liabilities of the service contract provider, and remains in effect for as long as there could be any cause of action against the service contract provider arising out of any of the service contract provider's contracts or obligations in this state.

(c) The service of process must be accomplished and processed in the manner prescribed under RCW 48.02.200.

(4) The commissioner may refuse to issue a registration if the commissioner determines that the service contract provider, or any individual responsible for the conduct of the affairs of the service contract provider under subsection (2)(b) of this section, is not competent, trustworthy, ~~((financially responsible))~~ cannot demonstrate a minimum net worth or stockholder's equity and the ability to pay its debts when debts become due in accordance with the applicable requirements of subsection (2)(c) of this section, or has had a license as a service contract provider or similar license denied or revoked for cause by any state.

(5) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the service contract provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the service contract provider and payment of a fee of two hundred dollars, which must be deposited into the general fund. If not so renewed, the registration expires on the June 30th next preceding.

(6) A service contract provider must keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

**Sec. 3.** RCW 48.110.055 and 2016 c 224 s 4 are each amended to read as follows:

(1) This section applies to protection product guarantee providers.

(2) A person must not act as, or offer to act as, or hold himself or herself out to be a protection product guarantee provider in this state, nor may a protection product be sold to a consumer in this state, unless the protection product guarantee provider has:

(a) A valid registration as a protection product guarantee provider issued by the commissioner; and

(b) Either demonstrated its financial responsibility or assured the faithful performance of the protection product guarantee provider's obligations to its protection product guarantee holders by insuring all protection product guarantees under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and

properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one.

(3) Applicants to be a protection product guarantee provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) The names of the protection product guarantee provider's executive officer or officers directly responsible for the protection product guarantee provider's protection product guarantee business and their biographical affidavits on a form prescribed by the commissioner;

(b) The name, address, and telephone number of any administrators designated by the protection product guarantee provider to be responsible for the administration of protection product guarantees in this state;

(c) A copy of the protection product guarantee reimbursement insurance policy or policies;

(d) A copy of each protection product guarantee the protection product guarantee provider proposes to use in this state;

(e) The most recent annual financial statements, if available, or the most recent financial statements certified as accurate by two or more officers of the applicant which prove that the applicant (~~(is solvent)~~) has and maintains a minimum net worth or stockholder's equity of two hundred thousand dollars or more calculated in accordance with section 6 of this act and the ability to pay its debts when debts become due; and

(f) A nonrefundable application fee of two hundred fifty dollars.

(4) Each registered protection product guarantee provider must appoint the commissioner as the protection product guarantee provider's attorney to receive service of legal process issued against the protection product guarantee provider in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes effective legal service upon the protection product guarantee provider.

(a) With the appointment the protection product guarantee provider must designate the person to whom the commissioner must forward legal process so served upon him or her.

(b) The appointment is irrevocable, binds any successor in interest or to the assets or liabilities of the protection product guarantee provider, and remains in effect for as long as there could be any cause of action against the protection product guarantee provider arising out of any of the protection product guarantee provider's contracts or obligations in this state.

(c) The service of process must be accomplished and processed in the manner prescribed under RCW 48.02.200.

(5) The commissioner may refuse to issue a registration if the commissioner determines that the protection product guarantee provider, or any individual responsible for the conduct of the affairs of the protection product guarantee provider under subsection (3)(a) of this section, is not competent, trustworthy, ~~((financially responsible))~~ cannot demonstrate a minimum net worth or stockholder's equity in accordance with the applicable requirements of subsection (3)(e) of this section and the ability to pay its debts when debts become due, or has had a license as a protection product guarantee provider or similar license denied or revoked for cause by any state.

(6) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the protection product guarantee provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the protection product guarantee provider and payment of a fee of two hundred fifty dollars. If not so renewed, the registration expires on the June 30th next preceding.

(7) A protection product guarantee provider must keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

**Sec. 4.** RCW 48.110.130 and 2006 c 274 s 14 are each amended to read as follows:

(1) The commissioner may, subject to chapter 48.04 RCW, deny, suspend, or revoke the registration of a service contract provider or protection product guarantee provider if the commissioner finds that the service contract provider or protection product guarantee provider:

(a) Has violated this chapter or the commissioner's rules and orders;

(b) Has refused to be investigated or to produce its accounts, records, and files for investigation, or if any of its officers have refused to give information with respect to its affairs or refused to perform any other legal obligation as to an investigation, when required by the commissioner;

(c) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused service contract holders or protection product guarantee holders to accept less than the amount due them or caused service contract holders or protection product guarantee holders to employ attorneys or bring suit against the service contract provider or protection product guarantee provider to secure full payment or settlement of claims;

(d) Is affiliated with or under the same general management or interlocking directorate or ownership as another service contract provider or protection product guarantee provider which unlawfully transacts business in this state without having a registration;

(e) At any time fails to meet any qualification for which issuance of the registration could have been refused had such failure then existed and been known to the commissioner;

(f) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony;



(g) Is under suspension or revocation in another state with respect to its service contract business or protection product business;

(h) Has made a material misstatement in its application for registration;

(i) Has obtained or attempted to obtain a registration through misrepresentation or fraud;

(j) Has, in the transaction of business under its registration, used fraudulent, coercive, or dishonest practices;

(k) Has failed to pay any judgment rendered against it in this state regarding a service contract or protection product guarantee within sixty days after the judgment has become final; or

(l) Has failed to respond promptly to any inquiry from the insurance commissioner relative to service contract or protection product business. A lack of response within fifteen business days from receipt of an inquiry is untimely. A response must be in writing, unless otherwise indicated in the inquiry.

(2)(a) The commissioner may, without advance notice or hearing thereon, immediately suspend the registration of a service contract provider or protection product guarantee provider if the commissioner finds that any of the following circumstances exist:

~~((a))~~ (i) The provider ~~(is insolvent)~~ either does not maintain the minimum net worth required by this chapter or cannot pay its debts when debts become due, or both;

~~((b))~~ (ii) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the service contract provider or protection product guarantee provider has been commenced in any state; or

~~((c))~~ (iii) The ~~(financial condition or)~~ business practices of the service contract provider or protection product guarantee provider otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

(b) However, nothing in this subsection shall in any way be construed to limit the authority of the commissioner to take action against a service contract provider or a protection product guarantee provider granted by this chapter.

(3) If the commissioner finds that grounds exist for the suspension or revocation of a registration issued under this chapter, the commissioner may, in lieu of suspension or revocation, impose a fine upon the service contract provider or protection product guarantee provider in an amount not more than two thousand dollars per violation.

**Sec. 5.** RCW 48.110.902 and 2016 c 224 s 5 are each amended to read as follows:

(1) RCW 48.110.030 (2)(a) and (b), (3), and (4), 48.110.040, 48.110.060, 48.110.100, 48.110.110, 48.110.075 (2)(a) and (b) and (4)(e), and 48.110.073 (1) and (2) do not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or import distributor covering vehicles manufactured or imported by the motor vehicle manufacturer or import distributor. ~~(For purposes of this section, "motor vehicle service contract" includes a contract or agreement sold for separately stated consideration for a specific duration to perform any of the services set forth in RCW 48.110.020(18)(b-))~~

(2) RCW 48.110.030(2)(c) does not apply to a publicly traded motor vehicle manufacturer or import distributor.

(3) RCW 48.110.030 (2)(a) through (c), (3), and (4), 48.110.040, and 48.110.073(2) do not apply to wholly owned subsidiaries of motor vehicle manufacturers or import distributors. For purposes of this subsection, a company is considered a wholly owned subsidiary as long as it is ultimately owned, directly or indirectly, one hundred percent by single or multiple motor vehicle manufacturers or import distributors.

(4) The adoption of chapter 274, Laws of 2006 does not imply that a vehicle protection product warranty was insurance prior to October 1, 2006.

(5) For purposes of this section, "motor vehicle service contract" includes a contract or agreement sold for separately stated consideration for a specific duration to perform any of the services set forth in RCW 48.110.020(18)(b).

NEW SECTION. Sec. 6. A new section is added to chapter 48.110 RCW to read as follows:

(1) A service contract provider relying on RCW 48.110.050(2)(a) or 48.110.075(2)(a) to assure the faithful performance of its obligations to service contract holders shall calculate the minimum net worth or stockholder's equity required by this chapter in accordance with generally accepted accounting principles as set forth by the financial accounting standards board. A service contract provider must follow generally accepted accounting principles, as set forth by the financial accounting standards board, in regard to either unearned service contract fees or expected service contract claims, or both, when determining its net worth. A service contract provider relying on RCW 48.110.050(2)(a) or 48.110.075(2)(a) may elect to use statutory accounting principles in lieu of generally accepted accounting principles if it so chooses.

(2) A service contract provider relying on RCW 48.110.050(2) (b) or (c) to assure the faithful performance of its obligations to service contract holders shall calculate the minimum net worth or stockholder's equity required by this chapter in accordance with generally accepted accounting principles as set forth by the financial accounting standards board but must exclude from its assets all intangible assets including, but not limited to, goodwill, franchises, customer lists, patents or trademarks, and receivables from or advances to officers, directors, employees, salesmen, and affiliated companies when calculating net worth or stockholder's equity. However, a service contract provider relying on RCW 48.110.050(2) (b) or (c) may include receivables from affiliated companies if the affiliated company provides a written irrevocable guarantee to assure repayment of all receivables to the service contract provider and the guaranteeing organization has a net worth or stockholder's equity in excess of one hundred million dollars and submits a statement from a certified public accountant attesting that the net worth or stockholder's equity of the guaranteeing organization meets or exceeds the requirements of this subsection.

(3) A protection product guarantee provider that has elected to assure the faithful performance of its obligations to its protection product guarantee holders by insuring all protection product guarantees under a reimbursement insurance policy in accordance with RCW 48.110.055(2)(b) shall calculate the minimum net worth or stockholder's equity required by this chapter in accordance with generally accepted accounting principles as set forth by the financial accounting standards board. A protection product guarantee provider will follow generally accepted accounting principles, as set forth by the financial accounting standards board, in regard to either unearned protection product guarantee contract fees or

expected protection product guarantee contract claims, or both, when determining net worth. A protection product guarantee provider may elect to use statutory accounting principles in lieu of generally accepted accounting principles.

Passed by the House March 7, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor April 8, 2019.

Filed in Office of Secretary of State April 8, 2019.

## CHAPTER 17

[House Bill 1011]

### RESIDENTIAL REAL ESTATE DISCLOSURES--WORKING FORESTS

AN ACT Relating to improving the accuracy of the residential real estate disclosure statement associated with the Washington right to farm act by providing a more complete description of the scope of RCW 7.48.305 through references related to working forests; amending RCW 64.06.022; and creating new sections.

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

**NEW SECTION.** **Sec. 1.** (1) The legislature finds that maintaining the ecological and economic benefits of Washington's working forests is a critical part of planning for a fast-growing population and a changing climate. Sustainable, thriving working forests offer multiple benefits to the state, including clean water and air, fish and wildlife habitat, carbon storage, areas of open space and green amidst constant development pressures, and a strong economic base for rural jobs and statewide economic diversity.

(2) The legislature further finds that RCW 7.48.305, also known as the Washington right to farm act, provides certain protections from nuisance lawsuits arising from standard agricultural and forest practices. However, the mandatory real estate disclosure statement that provides residential home purchasers with notice of the right to farm act expressly notifies home buyers of the law's protections for nearby agricultural operations but fails to provide that same notice for nearby forestry operations.

(3) The legislature further finds that modifying the real estate disclosure statement relating to the right to farm act to include working forests gives home buyers a more accurate description of the effect of the right to farm act and Washington's science-based forest practices regulations that protect the state's public resources. This is important as population growth encroaches into forestland and brings residential land uses into areas historically dominated by commercial forestry.

**Sec. 2.** RCW 64.06.022 and 2010 c 64 s 4 are each amended to read as follows:

A seller of residential real property shall make available to the buyer the following statement: "This notice is to inform you that the real property you are considering for purchase may lie in close proximity to a farm or working forest. The operation of a farm or working forest involves usual and customary agricultural practices or forest practices, which are protected under RCW 7.48.305, the Washington right to farm act."

NEW SECTION. **Sec. 3.** This act applies prospectively only and not retroactively. It applies only to sales of property that arise on or after January 1, 2020.

Passed by the House March 7, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor April 8, 2019.

Filed in Office of Secretary of State April 8, 2019.

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## CHAPTER 18

[House Bill 1055]

### NO-CONTACT ORDERS--TRAFFICKING AND PROMOTING PROSTITUTION--ARREST

AN ACT Relating to authorizing law enforcement to arrest persons in violation of certain no-contact orders involving victims of trafficking and promoting prostitution offenses; and reenacting and amending RCW 10.31.100.

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

**Sec. 1.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 10.99, 26.09, 26.10, (~~26.26~~) 26.26B, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day

care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the

operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(~~(4)~~) (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is

awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

Passed by the House February 14, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor April 8, 2019.

Filed in Office of Secretary of State April 8, 2019.

## CHAPTER 19

[House Bill 1247]

### STATE CREDIT UNION ACT-VARIOUS PROVISIONS

AN ACT Relating to the Washington state credit union act; and amending RCW 31.12.185, 31.12.195, 31.12.335, 31.12.382, 31.12.404, and 31.12.436.

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

**Sec. 1.** RCW 31.12.185 and 1997 c 397 s 12 are each amended to read as follows:

(1) A credit union's annual membership meeting shall be held at such time and ~~((place))~~ in such manner as the bylaws prescribe, and shall be conducted according to the rules of procedure approved by the board.

(2) Notice of the annual membership meetings of a credit union shall be given as provided in the bylaws of the credit union.

**Sec. 2.** RCW 31.12.195 and 2017 c 61 s 4 are each amended to read as follows:

(1) A special membership meeting of a credit union may be called by:

(a) A majority vote of the board;

(b) Written petition signed or similarly authenticated by at least ten percent or two thousand of the members of a credit union, whichever is less;

(c) A unanimous vote of the supervisory committee for the purpose of presenting and discussing a special report by the supervisory committee regarding the failure of the board to adequately respond within a reasonable time frame to findings or recommendations previously provided to the board by the supervisory committee pursuant to RCW 31.12.335; or

(d) Unanimous vote of the supervisory committee to suspend a director for cause pursuant to RCW 31.12.345 if the supervisory committee has provided the director and the board with written notice of such cause and a statement of reasons why cause was found, and the board and the director have failed to act within a reasonable period to rectify the activity that constitutes cause.

(2) A call of a special membership meeting of a credit union shall be in writing submitted to the secretary of the credit union by the board, the petitioners, or the supervisory committee as applicable, and shall state specifically the purpose or purposes for which the meeting is called and the agenda item or items for consideration by the members at the meeting. If the special membership meeting is called for the removal of one or more directors or supervisory committee members, the call shall state the name of each individual whose removal is sought.

(3)(a) Upon receipt of a call for a special membership meeting, the secretary of the credit union shall determine whether the call satisfies the requirements of this section. If so, the secretary shall determine the date(~~(;)~~) and time(~~(- and place~~ ~~at)~~ on which the special membership meeting will be held, and provide notice of the special membership meeting in accordance with the requirements of this subsection and the credit union's bylaws. (~~The special membership meeting must be held at a reasonable location within the county in which the principal place of business of the credit union is located, unless provided otherwise by the bylaws.~~) The special membership meeting must be held no later than ninety days after the date on which the call is received by the secretary.

(b) The secretary shall give notice of the special membership meeting at least thirty days before the date of the meeting, or within such other reasonable time period as may be provided by the bylaws. The notice must state the purpose or purposes for which the special membership meeting is called, and the agenda items for the meeting. If the special membership meeting is called for the removal of one or more directors or supervisory committee members, the notice must state the name of each individual whose removal is sought.

(4) Except as provided in this subsection, the chairperson of the board shall preside over special membership meetings. If the purpose of the special membership meeting includes the removal of the chairperson, the next highest ranking board officer whose removal is not sought shall preside over the meeting. If the removal of all board officers is sought, the chairperson of the supervisory committee shall preside over the special membership meeting.

(5) At the special membership meeting, only those agenda items that are stated in the notice for the meeting may be considered.

(6) Special membership meetings shall be conducted according to the rules of procedure approved by the board.

**Sec. 3.** RCW 31.12.335 and 2017 c 61 s 8 are each amended to read as follows:

(1) The supervisory committee of a credit union shall:

(a) Keep informed as to the financial condition of the credit union and the decisions of the credit union's board;

(b) Perform or arrange for:

(i) A complete annual audit of the credit union; and

(ii) A verification of its members' accounts at least once every two years, and shall provide any related findings and recommendations from such audits and verifications to the board;

(c) Provide an annual report to members at each annual membership meeting;

(d) Perform or arrange for additional audits as requested by the board or management or as deemed necessary by the supervisory committee and provide any related findings and recommendations to management or the board as deemed appropriate by the supervisory committee;

(e) Monitor the implementation of management responses to material adverse findings in audits and regulatory examinations;

(f) Implement a process for the supervisory committee to receive and respond to whistleblower complaints; and

(g) Perform any additional duties as specified by the board or in the credit union's bylaws.



(2) The supervisory committee may in its sole discretion retain, at the credit union's expense, independent counsel or other professional advisors or consultants as necessary to perform the duties under this section.

**Sec. 4.** RCW 31.12.382 and 1994 c 92 s 178 are each amended to read as follows:

(1) Membership in a credit union shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. The director may adopt rules: (a) Reasonably defining "common bond"; and (b) setting forth standards for the approval of charters.

(2) The director may approve the inclusion within the field of membership of a credit union a group having a separate common bond if the director determines that the group is not of sufficient size or resources to support a viable credit union of its own.

(3) The director may approve, in accordance with the provisions of this chapter, the inclusion within a credit union's field of membership of groups having a common bond of occupation or association, or groups within a well-defined neighborhood, community, or rural district, notwithstanding the fact that such groups are situated partially or wholly outside this state.

**Sec. 5.** RCW 31.12.404 and 2017 c 61 s 10 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and in addition to all powers and authorities, express or implied, that a credit union has under the laws of this state, a credit union has the powers and authorities that a federal credit union had on December 31, 1993, or a subsequent date not later than ~~((July 23, 2017))~~ the effective date of this section.

(2) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a credit union has under subsection (1) of this section, a credit union has the powers and authorities that a federal credit union has ~~((; and an out-of-state credit union operating a branch in Washington has;))~~ subsequent to ~~((July 23, 2017))~~ the effective date of this section, if the director finds that the exercise of the power and authority serves the convenience and advantage of members of credit unions, and maintains the fairness of competition and parity between credit unions and federal ~~((or out-of-state))~~ credit unions. However, a credit union~~((;~~

~~((a;))~~ must ~~((still))~~ comply with RCW 31.12.408~~((; and~~

~~((b) Is not granted the field of membership powers or authorities of any out-of-state credit union operating a branch in Washington)).~~

(3) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a credit union has under subsections (1) and (2) of this section, a credit union may exercise the powers and authorities that it would have if it were an out-of-state credit union. Any such power or authority is subject to regulation by the director. In exercising such power or authority, a credit union:

(a) Must comply with RCW 31.12.408;

(b) Is not granted the field of membership powers or authorities of any out-of-state credit union; and

(c) Must be able to exercise such power or authority consistent with the purposes of this chapter.

(4) Before exercising any power or authority afforded under subsection (3) of this section, a credit union must first notify the director of its intent to do so. This notice must be sent to the director by United States mail or by electronic means if the director accepts electronic delivery. If the director takes no action on the request within thirty days of delivery of the notice, the right to exercise the power or authority is deemed granted, subject to the restrictions in subsection (3)(a) and (b) of this section. In order to grant the request, the director must find that:

(a) The request complies with subsection (3)(a), (b), and (c) of this section; and

(b) The exercise of such power or authority serves the convenience and advantage of members of credit unions and maintains the fairness of competition and parity between credit unions and out-of-state credit unions.

(5) The restrictions, limitations, and requirements applicable to specific powers or authorities of federal or out-of-state credit unions apply to credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to the specific exercise of the powers or authorities granted credit unions solely under this section.

~~((4))~~ (6) As used in this section, "powers and authorities" include, but are not limited to, powers and authorities in corporate governance matters.

**Sec. 6.** RCW 31.12.436 and 2017 c 61 s 12 are each amended to read as follows:

(1) A credit union may invest its funds in any of the following, as long as the investments are deemed prudent by the board:

(a) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection (1)(e) may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

(f) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to five percent of the capital of the credit union, in debt or equity issued by an organization owned by the Northwest credit union association or its successor credit union association;

(h) Shares, stocks, loans, or other obligations of organizations whose primary purpose is to strengthen, advance, or provide services to the credit union industry or credit union members. A credit union may invest in or make loans to organizations under this subsection (1)(h) in an aggregate amount not to exceed ~~((five))~~ ten percent of its assets. This limit does not apply to investments in, and loans to, an organization:

(i) That is wholly owned by one or more credit unions or federal or out-of-state credit unions; and

(ii) Whose activities are limited exclusively to those authorized by this chapter for a credit union;

(i) Loans to credit unions, out-of-state credit unions, or federal credit unions. However, the aggregate of loans issued under this subsection (1)(i) is limited to twenty-five percent of the total shares and deposits of the credit union making the loans;

(j) Key person insurance policies and investment products related to employee benefits, the proceeds of which inure exclusively to the benefit of the credit union;

(k) A registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for credit unions; ~~((or))~~

(l) For credit unions that are approved public depositories, any securities listed in RCW 39.58.050 as eligible collateral for public deposits;

(m) Investments of the type in which the state treasurer may invest state funds pursuant to RCW 43.84.080; or

(n) Other investments approved by the director by rule or upon written application.

(2) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

Passed by the House March 1, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor April 8, 2019.

Filed in Office of Secretary of State April 8, 2019.

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## CHAPTER 20

[House Bill 2072]

### COUNTY TREASURERS--CONTRACTING

AN ACT Relating to authorizing county treasurers to contract with other treasurers for services; and amending RCW 36.29.010.

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

**Sec. 1.** RCW 36.29.010 and 2005 c 502 s 2 are each amended to read as follows:

The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor and electronic funds transfer under RCW 39.58.750 as attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depository, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall endorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." When there are funds to redeem outstanding warrants, the county treasurer shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(8) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions; ~~(and)~~

(9) May provide certain collection services for county departments; and

(10) May contract with another county treasurer, the state treasurer, or both, for any duty or service performed by the contracting county treasurer, except that no contracted treasurer may perform a duty that is in conflict with his or her own duties as treasurer or that is in conflict with any other statutory or ethical requirements.

The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession.

Money received by all entities for whom the county treasurer serves as treasurer must be deposited within twenty-four hours in an account designated by the county treasurer unless a waiver is granted by the county treasurer in accordance with RCW 43.09.240.

Passed by the House March 5, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor April 8, 2019.

Filed in Office of Secretary of State April 8, 2019.

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## CHAPTER 21

[Senate Bill 5503]

### ON-SITE SEWAGE SYSTEMS--STATE BOARD OF HEALTH RULES

AN ACT Relating to state board of health rules regarding on-site sewage systems; amending RCW 70.05.074; adding a new section to chapter 43.20 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that properly functioning on-site sewage systems are an important component of the state's wastewater treatment infrastructure. In order to ensure that on-site sewage systems remain a wastewater treatment option that is economically accessible to a wide sector of the state's population, it is the intent of the legislature to ensure that only requirements that are reasonable, appropriately tailored, and necessary are imposed on the installation, operation, maintenance, or repair of on-site sewage systems.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.20 RCW to read as follows:

(1) Rules adopted by the state board under RCW 43.20.050(3) regarding failures of on-site sewage systems must:

(a) Give first priority to allowing repair and second priority to allowing replacement of an existing conventional on-site sewage system, consisting of a septic tank and drainfield, with a similar conventional system;

(b) Not impose or allow the imposition of more stringent performance requirements of equivalent on-site sewage systems on private entities than public entities; and

(c) Allow a system to be repaired using the least expensive alternative that meets standards and is likely to provide comparable or better long-term sewage treatment and effluent dispersal outcomes.

(2) Rules adopted by the state board under RCW 43.20.050(3) regarding inspections must:

(a) Require any inspection of an on-site sewage system carried out by a certified professional inspector or public agency to be coordinated with the owner of the on-site sewage system prior to accessing the on-site sewage system;

(b) Require any inspection of an on-site sewage system carried out by a certified professional inspector or responsible public agency to be authorized by the owner of the on-site sewage system prior to accessing the on-site sewage system;

(c) Allow, in cases where an inspection has not been authorized by a property owner, the local health jurisdiction to follow the procedures established for an administrative search warrant in RCW 70.118.030; and

(d) Forbid local health jurisdictions from requiring private property owners to grant inspection or maintenance easements for on-site sewage systems as a

condition of permit issuance for on-site sewage systems that are located on a single property and service a single dwelling unit.

\*Sec. 3. RCW 70.05.074 and 1997 c 447 s 2 are each amended to read as follows:

*(1) The local health officer must respond to the applicant for an on-site sewage system permit within thirty days after receiving a fully completed application. The local health officer must respond that the application is either approved, denied, or pending.*

*(2) If the local health officer denies an application to install an on-site sewage system, the denial must be for cause and based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws, regulations, or ordinances. A local health officer may not deny or condition a permit application related to an on-site sewage system located on a single property and serving a single dwelling unit upon the granting of an easement allowing for the inspection or maintenance of the on-site sewage system. The local health officer must provide the applicant with a written justification for the denial, along with an explanation of the procedure for appeal.*

*(3) If the local health officer identifies the application as pending and subject to review beyond thirty days, the local health officer must provide the applicant with a written justification that the site-specific conditions or circumstances necessitate a longer time period for a decision on the application. The local health officer must include any specific information necessary to make a decision and the estimated time required for a decision to be made.*

*(4) A local health officer may not limit the number of alternative sewage systems within his or her jurisdiction without cause. Any such limitation must be based upon public health and environmental protection concerns, including concerns regarding the ability to operate and maintain the system, or conflicts with other existing laws, regulations, or ordinances. If such a limitation is established, the local health officer must justify the limitation in writing, with specific reasons, and must provide an explanation of the procedure for appealing the limitation.*

*\*Sec. 3 was vetoed. See message at end of chapter.*

Passed by the Senate March 6, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 18, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Senate Bill No. 5503 entitled:

"AN ACT Relating to state board of health rules regarding on-site sewage systems."

I am vetoing Section 3 of this bill. This section is unnecessary and precludes local health jurisdiction staff from conditioning an on-site septic permit once an easement for the system has been granted. The granting of an easement should not eliminate the ability of an inspector to correct problems of a system that they are inspecting. The new section of this bill (Section 2) significantly increases protections for homeowners and provides assurance that on-site inspections will be done properly and fairly.

For these reasons I have vetoed Section 3 of Senate Bill No. 5503.

With the exception of Section 3, Senate Bill No. 5503 is approved."

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## CHAPTER 22

[House Bill 1020]

### COUNTY ROAD ADMINISTRATION BOARD--MEMBER QUALIFICATIONS

AN ACT Relating to modifying the qualifications of members composing the county road administration board; and amending RCW 36.78.040.

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

**Sec. 1.** RCW 36.78.040 and 2005 c 233 s 1 are each amended to read as follows:

Six members of the county road administration board shall be county legislative authority members and three members shall be county engineers. If any member, during the term for which he or she is appointed, ceases to be either a member of a county legislative authority or a county engineer, as the case may be, his or her membership on the county road administration board is likewise terminated. Three members of the board shall be from counties with a population of one hundred (~~(twenty-five)~~) fifty thousand or more. Four members shall be from counties with a population of from (~~(twenty)~~) thirty thousand to less than one hundred (~~(twenty-five)~~) fifty thousand. Two members shall be from counties with a population of less than (~~(twenty)~~) thirty thousand. Not more than one member of the board shall be from any one county.

Passed by the House February 14, 2019.

Passed by the Senate April 8, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 23

[Engrossed Substitute House Bill 1138]

### TERMINATION OF TENANCY--ARMED FORCES EXCEPTIONS

AN ACT Relating to the armed forces exceptions for giving notice of termination of tenancy; amending RCW 59.18.200, 59.18.220, 59.20.030, and 59.20.090; and reenacting and amending RCW 59.18.030.

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

**Sec. 1.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as

reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

(6) "Distressed home" has the same meaning as in RCW 61.34.020.

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(9) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(11) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(12) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.



(13) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(14) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(15) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(16) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(17) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(18) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(19) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(20) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(21) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(22) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable

professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(24) "Reasonable manner," with respect to disposing of a deceased tenant's personal property, means to dispose of the property by donation to a not-for-profit charitable organization, by removal of the property by a trash hauler or recycler, or by any other method that is reasonable under the circumstances.

(25) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(26) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(27) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(28) "Tenant representative" means:

(a) A personal representative of a deceased tenant's estate if known to the landlord;

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

(c) In the absence of a personal representative under (a) of this subsection or a person claiming to be a successor under (b) of this subsection, a designated person; or

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

(29) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(30) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

(31) "Active duty" means service authorized by the president of the United States, the secretary of defense, or the governor for a period of more than thirty consecutive days.

(32) "Orders" means written official military orders, or any written notification, certification, or verification from the service member's commanding officer, with respect to the service member's current or future military status.

(33) "Permanent change of station" means: (a) Transfer to a unit located at another port or duty station; (b) change in a unit's home port or permanent duty station; (c) call to active duty for a period not less than ninety days; (d) separation; or (e) retirement.

(34) "Service member" means an active member of the United States armed forces, a member of a military reserve component, or a member of the national guard who is either stationed in or a resident of Washington state.

**Sec. 2.** RCW 59.18.200 and 2008 c 113 s 4 are each amended to read as follows:

(1)(a) When premises are rented for an indefinite time, with monthly or other periodic rent reserved, such tenancy shall be construed to be a tenancy from month to month, or from period to period on which rent is payable, and shall be terminated by written notice of twenty days or more, preceding the end of any of the months or periods of tenancy, given by either party to the other.

(b) Any tenant who is a member of the armed forces, including the national guard and armed forces reserves, or that tenant's spouse or dependent, may terminate a rental agreement with less than twenty days' written notice if the tenant receives ~~((reassignment))~~ permanent change of station or deployment orders that do not allow a twenty-day written notice.

(2)(a) Whenever a landlord plans to change to a policy of excluding children, the landlord shall give a written notice to a tenant at least ninety days before termination of the tenancy to effectuate such change in policy. Such ninety-day notice shall be in lieu of the notice required by subsection (1) of this section. However, if after giving the ninety-day notice the change in policy is delayed, the notice requirements of subsection (1) of this section shall apply unless waived by the tenant.

(b) Whenever a landlord plans to change any apartment or apartments to a condominium form of ownership, the landlord shall provide a written notice to a tenant at least one hundred twenty days before termination of the tenancy, in compliance with RCW 64.34.440(1), to effectuate such change. The one hundred twenty-day notice is in lieu of the notice required in subsection (1) of this section. However, if after providing the one hundred twenty-day notice the change to a condominium form of ownership is delayed, the notice requirements in subsection (1) of this section apply unless waived by the tenant.

**Sec. 3.** RCW 59.18.220 and 2003 c 7 s 2 are each amended to read as follows:

(1) In all cases where premises are rented for a specified time, by express or implied contract, the tenancy shall be deemed terminated at the end of such specified time.

(2) Any tenant who is a member of the armed forces, including the national guard and armed forces reserves, or that tenant's spouse or dependent, may terminate a tenancy for a specified time if the tenant receives ~~((reassignment))~~ permanent change of station or deployment orders. ~~((The tenant shall provide notice of the reassignment or deployment order to the landlord no later than~~

~~seven days after receipt~~) Before terminating the tenancy, the tenant, or that tenant's spouse or dependent, shall provide written notice of twenty days or more to the landlord, which notice shall include a copy of the official military orders or a signed letter from the service member's commanding officer confirming any of the following criteria are met:

(a) The service member is required, pursuant to a permanent change of station orders, to move thirty-five miles or more from the location of the rental premises;

(b) The service member is prematurely or involuntarily discharged or released from active duty;

(c) The service member is released from active duty after having leased the rental premises while on active duty status and the rental premises is thirty-five miles or more from the service member's home of record prior to entering active duty;

(d) After entering into a rental agreement, the commanding officer directs the service member to move into government provided housing;

(e) The service member receives temporary duty orders, temporary change of station orders, or active duty orders to an area thirty-five miles or more from the location of the rental premises, provided such orders are for a period not less than ninety days; or

(f) The service member has leased the property, but prior to taking possession of the rental premises, receives change of station orders to an area that is thirty-five miles or more from the location of the rental premises.

**Sec. 4.** RCW 59.20.030 and 2008 c 116 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" as it relates to a mobile home, manufactured home, or park model owned by a tenant in a mobile home park, mobile home park cooperative, or mobile home park subdivision or tenancy in a mobile home lot means the tenant has defaulted in rent and by absence and by words or actions reasonably indicates the intention not to continue tenancy;

(2) "Eligible organization" includes local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or statewide nonprofit housing assistance organizations;

(3) "Housing authority" or "authority" means any of the public body corporate and politic created in RCW 35.82.030;

(4) "Landlord" means the owner of a mobile home park and includes the agents of a landlord;

(5) "Local government" means a town government, city government, code city government, or county government in the state of Washington;

(6) "Manufactured home" means a single-family dwelling built according to the United States department of housing and urban development manufactured home construction and safety standards act, which is a national preemptive building code. A manufactured home also: (a) Includes plumbing, heating, air conditioning, and electrical systems; (b) is built on a permanent chassis; and (c) can be transported in one or more sections with each section at least eight feet wide and forty feet long when transported, or when installed on the site is three hundred twenty square feet or greater;

(7) "Manufactured/mobile home" means either a manufactured home or a mobile home;

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the United States department of housing and urban development code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since the introduction of the United States department of housing and urban development manufactured home construction and safety act;

(9) "Mobile home lot" means a portion of a mobile home park or manufactured housing community designated as the location of one mobile home, manufactured home, or park model and its accessory buildings, and intended for the exclusive use as a primary residence by the occupants of that mobile home, manufactured home, or park model;

(10) "Mobile home park," "manufactured housing community," or "manufactured/mobile home community" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy;

(11) "Mobile home park cooperative" or "manufactured housing cooperative" means real property consisting of common areas and two or more lots held out for placement of mobile homes, manufactured homes, or park models in which both the individual lots and the common areas are owned by an association of shareholders which leases or otherwise extends the right to occupy individual lots to its own members;

(12) "Mobile home park subdivision" or "manufactured housing subdivision" means real property, whether it is called a subdivision, condominium, or planned unit development, consisting of common areas and two or more lots held for placement of mobile homes, manufactured homes, or park models in which there is private ownership of the individual lots and common, undivided ownership of the common areas by owners of the individual lots;

(13) "Notice of sale" means a notice required under RCW 59.20.300 to be delivered to all tenants of a manufactured/mobile home community and other specified parties within fourteen days after the date on which any advertisement, multiple listing, or public notice advertises that a manufactured/mobile home community is for sale;

(14) "Park model" means a recreational vehicle intended for permanent or semi-permanent installation and is used as a primary residence;

(15) "Qualified sale of manufactured/mobile home community" means the sale, as defined in RCW 82.45.010, of land and improvements comprising a manufactured/mobile home community that is transferred in a single purchase to a qualified tenant organization or to an eligible organization for the purpose of preserving the property as a manufactured/mobile home community;

(16) "Qualified tenant organization" means a formal organization of tenants within a manufactured/mobile home community, with the only requirement for membership consisting of being a tenant;

(17) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot;

(18) "Tenant" means any person, except a transient, who rents a mobile home lot;

(19) "Transient" means a person who rents a mobile home lot for a period of less than one month for purposes other than as a primary residence;

(20) "Occupant" means any person, including a live-in care provider, other than a tenant, who occupies a mobile home, manufactured home, or park model and mobile home lot;

(21) "Active duty" means service authorized by the president of the United States, the secretary of defense, or the governor for a period of more than thirty consecutive days.

(22) "Orders" means written official military orders, or any written notification, certification, or verification from the service member's commanding officer, with respect to the service member's current or future military status;

(23) "Permanent change of station" means: (a) Transfer to a unit located at another port or duty station; (b) change of a unit's home port or permanent duty station; (c) call to active duty for a period not less than ninety days; (d) separation; or (e) retirement.

(24) "Service member" means an active member of the United States armed forces, a member of a military reserve component, or a member of the national guard who is either stationed in or a resident of Washington state.

**Sec. 5.** RCW 59.20.090 and 2010 c 8 s 19034 are each amended to read as follows:

(1) Unless otherwise agreed rental agreements shall be for a term of one year. Any rental agreement of whatever duration shall be automatically renewed for the term of the original rental agreement, unless a different specified term is agreed upon.

(2) A landlord seeking to increase the rent upon expiration of the term of a rental agreement of any duration shall notify the tenant in writing three months prior to the effective date of any increase in rent.

(3) A tenant shall notify the landlord in writing one month prior to the expiration of a rental agreement of an intention not to renew.

(4)(a) The tenant may terminate the rental agreement upon thirty days written notice whenever a change in the location of the tenant's employment requires a change in his or her residence, and shall not be liable for rental following such termination unless after due diligence and reasonable effort the landlord is not able to rent the mobile home lot at a fair rental. If the landlord is not able to rent the lot, the tenant shall remain liable for the rental specified in the rental agreement until the lot is rented or the original term ends.

(b) Any tenant who is a member of the armed forces, including the national guard and armed forces reserves, or that tenant's spouse or dependent, may terminate a rental agreement with less than thirty days notice if the tenant receives ~~((reassignment))~~ permanent change of station or deployment orders which do not allow greater notice. The ~~((tenant))~~ service member shall provide

~~((notice of the reassignment or deployment order to))~~ the landlord ~~((no later than seven days after receipt))~~ a copy of the official military orders or a signed letter from the service member's commanding officer confirming any of the following criteria are met:

(i) The service member is required, pursuant to permanent change of station orders, to move thirty-five miles or more from the location of the rental premises;

(ii) The service member is prematurely or involuntarily discharged or released from active duty;

(iii) The service member is released from active duty after having leased the rental premises while on active duty status and the rental premises is thirty-five miles or more from the service member's home of record prior to entering active duty;

(iv) After entering into a rental agreement, the commanding officer directs the service member to move into government provided housing;

(v) The service member receives temporary duty orders, temporary change of station orders, or state active duty orders to an area thirty-five miles or more from the location of the rental premises, provided such orders are for a period not less than ninety days; or

(vi) The service member has leased the property, but prior to taking possession of the rental premises, receives change of station orders to an area that is thirty-five miles or more from the location of the rental premises.

Passed by the House February 20, 2019.

Passed by the Senate April 8, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 24

[Substitute Senate Bill 5588]

### RENEWABLE HYDROGEN--PUBLIC UTILITY DISTRICTS

AN ACT Relating to authorizing the production, distribution, and sale of renewable hydrogen; and amending RCW 54.04.190.

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

**Sec. 1.** RCW 54.04.190 and 2015 c 31 s 1 are each amended to read as follows:

(1) In addition to any other authority provided by law, public utility districts are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

(2) In addition to any other authority provided by law:

(a) Public utility districts are authorized to produce renewable natural gas and renewable hydrogen and utilize the renewable natural gas or renewable hydrogen they produce for internal operations.

(b) Public utility districts may sell renewable natural gas or renewable hydrogen that is delivered into a gas transmission pipeline located in the state of Washington or delivered in pressurized containers:

(i) At wholesale; ~~(( $\oplus$ ))~~

(ii) To an end-use customer; or

~~(iii) If delivered in a pressurized container, or if the end-use customer takes delivery of the renewable natural gas or renewable hydrogen through a pipeline, and the end-use customer is an eligible purchaser of natural gas from sellers other than the gas company from which that end-use customer takes transportation service and:~~

(A) When the sale is made to an end-use customer in the state of Washington, the sale is made pursuant to a transportation tariff approved by the Washington utilities and transportation commission; or

(B) When the sale to an end-use customer is made outside of the state of Washington, the sale is made pursuant to a transportation tariff approved by the state agency which regulates retail sales of natural gas.

(c) Public utility districts may sell renewable natural gas or renewable hydrogen at wholesale or to an end-use customer through a pipeline directly from renewable natural gas or renewable hydrogen production facilities to facilities that compress, liquefy, or dispense compressed natural gas ~~(( $\oplus$ ))~~, liquefied natural gas, or renewable hydrogen fuel for end use as a transportation fuel.

(d) Public utility districts may sell renewable hydrogen at wholesale or to an end-use customer in pressurized containers directly from renewable hydrogen production facilities to facilities that utilize renewable hydrogen as a nonutility related input for a manufacturing process.

(3) Except as provided in subsection (2)(b)~~(( $\oplus$ ))~~ (iii) of this section, nothing in this section authorizes a public utility district to sell renewable natural gas or renewable hydrogen delivered by pipeline to an end-use customer of a gas company.

(4)(a) Except as provided in this subsection (4), nothing in this section authorizes a public utility district to own or operate natural gas distribution pipeline systems used to serve retail customers.

(b) For the purposes of subsection (2)(b) of this section, public utility districts are authorized to own and operate interconnection pipelines that connect renewable natural gas or renewable hydrogen production facilities to gas transmission pipelines.

(c) For the purposes of subsection (2)(c) of this section, public utility districts may own and/or operate pipelines to supply, and/or compressed natural gas ~~(( $\oplus$ ))~~, liquefied natural gas, or renewable hydrogen facilities to provide, renewable natural gas or renewable hydrogen for end use as a transportation fuel if all such pipelines and facilities are located in the county in which the public utility district is authorized to provide utility service.

(5) Exercise of the authorities granted under this section to public utility districts does not subject them to the jurisdiction of the utilities and transportation commission, except that public utility districts are subject only to administration and enforcement by the commission of state and federal requirements related to pipeline safety and fees payable to the commission that are applicable to such administration and enforcement.



(6) ~~((For purposes of this subsection:))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(b) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(c) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar energy; (iv) geothermal energy; (v) renewable natural gas; (vi) renewable hydrogen; (vii) wave, ocean, or tidal power; (viii) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (ix) biomass energy.

(d) "Gas company" has the same meaning as in RCW 80.04.010.

Passed by the Senate February 15, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 25

[House Bill 1412]

### NONRESIDENT PHARMACIES--INSPECTION REPORTS

AN ACT Relating to nonresident pharmacies; and amending RCW 18.64.360.

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

**Sec. 1.** RCW 18.64.360 and 2013 c 19 s 22 are each amended to read as follows:

(1) For the purposes of this chapter any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state is a nonresident pharmacy, and shall be licensed by the department of health, and shall disclose to the department the following:

(a) The location, names, and titles of all owners including corporate officers and all pharmacists employed by the pharmacy who are dispensing controlled substances, legend drugs, or devices to residents of this state. A report containing this information shall be made on an annual basis and within ninety days after a change of location, corporate officer, or pharmacist;

(b) Proof of compliance with all lawful directions and requests for information from the regulatory or licensing agency of the state or Canadian province in which it is licensed as well as with all requests for information made by the department of health under this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state or Canadian province in which it is located. As a prerequisite ~~((to be licensed by the department of health, the nonresident pharmacy shall submit a copy of the most recent inspection report issued by the regulatory licensing agency of the state or Canadian province in which it is located;))~~ for initial licensure and renewal of a license by

the department of health, the nonresident pharmacy must submit a copy of an inspection report:

(i) Conducted by an inspection program approved by the commission as having substantially equivalent standards to those of the commission; and

(ii) Issued within two years of application or renewal of a license; and

(c) Proof that it maintains its records of controlled substances, legend drugs, or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(2) Any pharmacy subject to this section shall, during its regular hours of operation, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on the label affixed to each container of drugs dispensed to patients in this state.

(3) A pharmacy subject to this section shall comply with commission rules regarding the maintenance and use of patient medication record systems.

(4) A pharmacy subject to this section shall comply with commission rules regarding the provision of drug information to the patient. Drug information may be contained in written form setting forth directions for use and any additional information necessary to assure the proper utilization of the medication prescribed. A label bearing the expiration date of the prescription must be affixed to each box, bottle, jar, tube, or other container of a prescription that is dispensed in this state by a pharmacy subject to this section.

(5) A pharmacy subject to this section shall not dispense medication in a quantity greater than authorized by the prescriber.

(6) The license fee specified by the secretary, in accordance with the provisions of RCW 43.70.250, shall not exceed the fee charged to a pharmacy located in this state.

(7) The license requirements of this section apply to nonresident pharmacies that ship, mail, or deliver controlled substances, legend drugs, and devices into this state only under a prescription. The commission may grant an exemption from licensing under this section upon application by an out-of-state pharmacy that restricts its dispensing activity in Washington to isolated transactions.

(8) Each nonresident pharmacy that ships, mails, or delivers legend drugs or devices into this state shall designate a resident agent in Washington for service of process. The designation of such an agent does not indicate that the nonresident pharmacy is a resident of Washington for tax purposes.

(9) The commission shall attempt to develop a reciprocal licensing agreement for licensure of nonresident pharmacies with Health Canada or an applicable Canadian province. If the commission is unable to develop such an agreement, the commission shall develop a process to license participating Canadian nonresident pharmacies through on-site inspection and certification.

Passed by the House March 1, 2019.

Passed by the Senate April 3, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 26

[House Bill 1431]

## JOINT SELF-INSURANCE PROGRAMS--BOARD OF PILOTAGE COMMISSIONERS

AN ACT Relating to joint self-insurance programs for property and liability risks; amending RCW 48.62.011, 48.62.031, 48.62.111, and 48.62.121; and adding a new section to chapter 48.62 RCW.

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

**Sec. 1.** RCW 48.62.011 and 1991 sp.s. c 30 s 1 are each amended to read as follows:

(1) This chapter is intended to provide the exclusive source of local government entity authority to individually or jointly self-insure risks, jointly purchase insurance or reinsurance, and to contract for risk management, claims, and administrative services. This chapter shall be liberally construed to grant local government entities maximum flexibility in self-insuring to the extent the self-insurance programs are operated in a safe and sound manner. This chapter is intended to require prior approval for the establishment of every individual local government self-insured employee health and welfare benefit program and every joint local government self-insurance program. In addition, this chapter is intended to require every local government entity that establishes a self-insurance program not subject to prior approval to notify the state of the existence of the program and to comply with the regulatory and statutory standards governing the management and operation of the programs as provided in this chapter. This chapter is not intended to authorize or regulate self-insurance of unemployment compensation under chapter 50.44 RCW, or industrial insurance under chapter 51.14 RCW.

(2) This chapter is further intended to enable the board of pilotage commissioners to participate in a local government joint self-insurance program covering liability risks.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.62 RCW to read as follows:

The board of pilotage commissioners may participate in a local government joint self-insurance program formed or operating in accordance with this chapter. The board of pilotage commissioners may participate in the program to obtain liability insurance coverage, but not property insurance coverage.

**Sec. 3.** RCW 48.62.031 and 2015 c 109 s 3 are each amended to read as follows:

(1) The governing body of a local government entity may individually self-insure, may join or form a self-insurance program together with other entities, including the board of pilotage commissioners, and may jointly purchase insurance or reinsurance with those other entities for property and liability risks, and health and welfare benefits only as permitted under this chapter. In addition, the entity or entities may contract for or hire personnel to provide risk management, claims, and administrative services in accordance with this chapter.

(2) The agreement to form a joint self-insurance program shall be made under chapter 39.34 RCW and may create a separate legal or administrative entity with powers delegated thereto.

(3) Every individual and joint self-insurance program is subject to audit by the state auditor.

(4) If provided for in the agreement or contract established under chapter 39.34 RCW, a joint self-insurance program may, in conformance with this chapter:

(a) Contract or otherwise provide for risk management and loss control services;

(b) Contract or otherwise provide legal counsel for the defense of claims and other legal services;

(c) Consult with the state insurance commissioner and the state risk manager;

(d) Jointly purchase insurance and reinsurance coverage in such form and amount as the program's participants agree by contract;

(e) Obligate the program's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the program, including the establishment of a reserve or fund for coverage; and

(f) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

(5) A self-insurance program formed and governed under this chapter that has decided to assume a risk of loss must have available for inspection by the state auditor a written report indicating the class of risk or risks the governing body of the entity has decided to assume.

(6) Every joint self-insurance program governed by this chapter shall appoint the risk manager as its attorney to receive service of, and upon whom shall be served, all legal process issued against it in this state upon causes of action arising in this state.

(a) Service upon the risk manager as attorney shall constitute service upon the program. Service upon joint insurance programs subject to chapter 30, Laws of 1991 sp. sess. can be had only by service upon the risk manager. At the time of service, the plaintiff shall pay to the risk manager a fee to be set by the risk manager, taxable as costs in the action.

(b) With the initial filing for approval with the risk manager, each joint self-insurance program shall designate by name and address the person to whom the risk manager shall forward legal process so served upon him or her. The joint self-insurance program may change such person by filing a new designation.

(c) The appointment of the risk manager as attorney shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the joint self-insurance program, and shall remain in effect as long as there is in force in this state any contract made by the joint self-insurance program or liabilities or duties arising therefrom.

(d) The risk manager shall keep a record of the day and hour of service upon him or her of all legal process. A copy of the process, by registered mail with return receipt requested, shall be sent by the risk manager, to the person designated for the purpose by the joint self-insurance program in its most recent such designation filed with the risk manager. No proceedings shall be had against the joint self-insurance program, and the program shall not be required to appear, plead, or answer, until the expiration of forty days after the date of service upon the risk manager.

**Sec. 4.** RCW 48.62.111 and 2003 c 248 s 20 are each amended to read as follows:

(1) The assets of a joint self-insurance program governed by this chapter may be invested only in accordance with the general investment authority that participating (~~(local government entities)~~) members possess as a governmental entity.

(2) Except as provided in subsection (3) of this section, a joint self-insurance program may invest all or a portion of its assets by depositing the assets with the treasurer of a county within whose territorial limits any of its member local government entities lie, to be invested by the treasurer for the joint program.

(3) Local government members of a joint self-insurance program, and the board of pilotage commissioners, may by resolution of the program designate some other person having experience in financial or fiscal matters as treasurer of the program, if that designated treasurer is located in Washington state. The program shall, unless the program's treasurer is a county treasurer, require a bond obtained from a surety company authorized to do business in Washington in an amount and under the terms and conditions that the program finds will protect against loss arising from mismanagement or malfeasance in investing and managing program funds. The program may pay the premium on the bond.

All program funds must be paid to the treasurer and shall be disbursed by the treasurer only on warrants issued by the treasurer or a person appointed by the program and upon orders or vouchers approved by the program or as authorized under chapters 35A.40 and 42.24 RCW. The treasurer shall establish a program account, into which shall be recorded all program funds, and the treasurer shall maintain special accounts as may be created by the program into which the treasurer shall record all money as the program may direct by resolution.

(4) The treasurer of the joint program shall deposit all program funds in a public depository or depositories as defined in RCW 39.58.010(~~((2))~~) (15) and under the same restrictions, contracts, and security as provided for any participating (~~(local government entity)~~) member, and the depository shall be designated by resolution of the program.

(5) A joint self-insurance program may invest all or a portion of its assets by depositing the assets with the state investment board, to be invested by the state investment board in accordance with chapter 43.33A RCW. The state investment board shall designate a manager for those funds to whom the program may direct requests for disbursement upon orders or vouchers approved by the program or as authorized under chapters 35A.40 and 42.24 RCW.

(6) All interest and earnings collected on joint program funds belong to the program and must be deposited to the program's credit in the proper program account.

(7) A joint program may require a reasonable bond from any person handling money or securities of the program and may pay the premium for the bond.

(8) Subsections (3) and (4) of this section do not apply to a multistate joint self-insurance program governed by RCW 48.62.081.

**Sec. 5.** RCW 48.62.121 and 2009 c 162 s 29 are each amended to read as follows:

(1) No employee or official of a local government entity or the board of pilotage commissioners may directly or indirectly receive anything of value for services rendered in connection with the operation and management of a self-insurance program other than the salary and benefits provided by his or her employer or the reimbursement of expenses reasonably incurred in furtherance of the operation or management of the program. No employee or official of a local government entity or the board of pilotage commissioners may accept or solicit anything of value for personal benefit or for the benefit of others under circumstances in which it can be reasonably inferred that the employee's or official's independence of judgment is impaired with respect to the management and operation of the program.

(2)(a) No local government entity may participate in a joint self-insurance program in which local government entities do not retain complete governing control. This prohibition does not apply to:

(i) Local government contribution to a self-insured employee health and welfare benefits plan otherwise authorized and governed by state statute;

(ii) Local government participation in a multistate joint program where control is shared with local government entities from other states; ~~((€))~~

(iii) Local government contribution to a self-insured employee health and welfare benefit trust in which the local government shares governing control with their employees; or

(iv) Local government participation in a joint self-insurance program with the board of pilotage commissioners, as authorized in section 2 of this act.

(b) If a local government self-insured health and welfare benefit program, established by the local government as a trust, shares governing control of the trust with its employees:

(i) The local government must maintain at least a fifty percent voting control of the trust;

(ii) No more than one voting, nonemployee, union representative selected by employees may serve as a trustee; and

(iii) The trust agreement must contain provisions for resolution of any deadlock in the administration of the trust.

(3) Moneys made available and moneys expended by school districts and educational service districts for self-insurance under this chapter are subject to such rules of the superintendent of public instruction as the superintendent may adopt governing budgeting and accounting. However, the superintendent shall ensure that the rules are consistent with those adopted by the state risk manager for the management and operation of self-insurance programs.

(4) RCW 48.30.140, 48.30.150, 48.30.155, and 48.30.157 apply to the use of insurance producers and surplus line brokers by local government self-insurance programs.

(5) Every individual and joint local government self-insured health and welfare benefits program that provides comprehensive coverage for health care services shall include mandated benefits that the state health care authority is required to provide under RCW 41.05.170 and 41.05.180. The state risk manager may adopt rules identifying the mandated benefits.

(6) An employee health and welfare benefit program established as a trust shall contain a provision that trust funds be expended only for purposes of the

trust consistent with statutes and rules governing the local government or governments creating the trust.

Passed by the House March 7, 2019.

Passed by the Senate April 8, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 27

[Substitute House Bill 1577]

### K-12 COMPUTER SCIENCE EDUCATION--DATA

AN ACT Relating to addressing data gathering of student participation in K-12 computer science education; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that to close the gender gap in computer science fields, it is important that computer science student participation rates are incorporated into the existing reporting infrastructure at the office of the superintendent of public instruction. The legislature finds that it is critical to track the gender and demographic composition of computer science course takers as well as the specific courses that they are taking. Grade level, socioeconomic, and distinctive factors should be included to establish a clear baseline of current student participation and identify areas for student participation improvement.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

Beginning June 30, 2020, and by each June 30th thereafter, each school district shall submit to the office of the superintendent of public instruction, and the office of the superintendent of public instruction shall post conspicuously on its web site, a report for the preceding academic year that must include, but is not limited to, the following:

(1) The total number of computer science courses offered in each school and whether these courses are advanced placement classes;

(2) The number and percentage of students who enrolled in a computer science program, disaggregated by:

(a) Gender;

(b) Race and ethnicity;

(c) Special education status;

(d) English language learner status;

(e) Eligibility for the free and reduced-price lunch program; and

(f) Grade level; and

(3) The number of computer science instructors at each school, disaggregated by:

(a) Certification, if applicable;

(b) Gender; and

(c) Highest academic degree.

Passed by the House March 4, 2019.

Passed by the Senate April 3, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 28

[House Bill 1634]

### TAX LIEN FORECLOSURE SALES--AS IS

AN ACT Relating to requiring property sold in tax lien foreclosure proceedings to be sold as is; and amending RCW 84.64.080.

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

**Sec. 1.** RCW 84.64.080 and 2015 c 95 s 12 are each amended to read as follows:

(1) The court must examine each application for judgment foreclosing a tax lien, and if a defense (specifying in writing the particular cause of objection) is offered by any person interested in any of the lands or lots to the entry of judgment, the court must hear and determine the matter in a summary manner, without other pleadings, and pronounce judgment. However, the court may, in its discretion, continue a case in which a defense is offered, to secure substantial justice to the contestants.

(2) In all judicial proceedings for the collection of taxes, and interest and costs thereon, all amendments which by law can be made in any personal action in the court must be allowed. No assessments of property or charge for any of the taxes is illegal on account of any irregularity in the tax list or assessment rolls, or on account of the assessment rolls or tax list not having been made, completed, or returned within the time required by law, or on account of the property having been charged or listed in the assessment or tax lists without name, or in any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, vitiates or in any manner affects the tax or the assessment of the tax. Any irregularities or informality in the assessment rolls or tax lists or in any of the proceedings connected with the assessment or levy of the taxes, or any omission or defective act of any officer connected with the assessment or levying of the taxes, may be, in the discretion of the court, corrected, supplied, and made to conform to the law by the court.

(3) The court must give judgment for the taxes, interest, and costs that appear to be due upon the several lots or tracts described in the notice of application for judgment. The judgment must be a several judgment against each tract or lot or part of a tract or lot for each kind of tax included therein, including all interest and costs. The court must order and direct the clerk to make and enter an order for the sale of the real property against which judgment is made, or vacate and set aside the certificate of delinquency, or make such other order or judgment as in law or equity may be just. The order must be signed by the judge of the superior court and delivered to the county treasurer. The order is full and sufficient authority for the treasurer to proceed to sell the property for the sum set forth in the order and to take further steps provided by law.

(4) The county treasurer must immediately after receiving the order and judgment proceed to sell the property as provided in this chapter to the highest and best bidder. The acceptable minimum bid must be the total amount of taxes, interest, and costs. The property must be sold "as is." There is no guarantee or



warranty of any kind, express or implied, relative to: Title, eligibility to build upon or subdivide the property; zoning classification; size; location; fitness for any use or purpose; or any other feature or condition of a foreclosed property sold pursuant to this chapter or sold pursuant to chapter 36.35 RCW as a tax title property.

(5) All sales must be made at a location in the county on a date and time (except Saturdays, Sundays, or legal holidays) as the county treasurer may direct, and continue from day to day (Saturdays, Sundays, and legal holidays excepted) during the same hours until all lots or tracts are sold. The county treasurer must first give notice of the time and place where the sale is to take place for ten days successively by posting notice thereof in three public places in the county, one of which must be in the office of the treasurer.

(6) Unless a sale is conducted pursuant to RCW 84.64.225, notice of a sale must be substantially in the following form:

TAX JUDGMENT SALE

Public notice is hereby given that pursuant to real property tax judgment of the superior court of the county of . . . . . in the state of Washington, and an order of sale duly issued by the court, entered the . . . . day of . . . . ., . . . ., in proceedings for foreclosure of tax liens upon real property, as per provisions of law, I shall on the . . . . day of . . . . ., . . . ., at . . . . o'clock a.m., at . . . . . in the city of . . . . ., and county of . . . . ., state of Washington, sell the real property to the highest and best bidder for cash, to satisfy the full amount of taxes, interest and costs adjudged to be due.

In witness whereof, I have hereunto affixed my hand and seal this . . . . day of . . . . ., . . . . .

Treasurer of . . . . . county.

(7) As an alternative to the sale procedure specified in subsections (5) and (6) of this section, the county treasurer may conduct a public auction sale by electronic media pursuant to RCW 84.64.225.

(8) No county officer or employee may directly or indirectly be a purchaser of the property at the sale.

(9) If any buildings or improvements are upon an area encompassing more than one tract or lot, the same must be advertised and sold as a single unit.

(10) If the highest amount bid for any separate unit tract or lot exceeds the minimum bid due upon the whole property included in the certificate of delinquency, the excess must be refunded, following payment of all recorded water-sewer district liens, on application therefor, to the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. Assignments of interests, deeds, or other documents executed or recorded after filing the certificate of delinquency do not affect the payment of excess funds to the record owner. In the event that no claim for the excess is received by the county treasurer within three years after the date of the sale, the treasurer must at expiration of the three year period deposit the excess in the current expense fund of the county, which extinguishes all claims by any owner to the excess funds.

(11) The county treasurer must execute to the purchaser of any piece or parcel of land a tax deed. The tax deed so made by the county treasurer, under

the official seal of the treasurer's office, must be recorded in the same manner as other conveyances of real property, and vests in the grantee, his or her heirs and assigns the title to the property therein described, without further acknowledgment or evidence of the conveyance.

(12) Tax deeds must be substantially in the following form:

State of Washington	}	ss.
County of . . . . .		

This indenture, made this . . . . day of . . . . ., . . . . ., between . . . . ., as treasurer of . . . . . county, state of Washington, party of the first part, and . . . . ., party of the second part:

Witnesseth, that, whereas, at a public sale of real property held on the . . . . day of . . . . ., . . . . ., pursuant to a real property tax judgment entered in the superior court in the county of . . . . . on the . . . . day of . . . . ., . . . . ., in proceedings to foreclose tax liens upon real property and an order of sale duly issued by the court, . . . . . duly purchased in compliance with the laws of the state of Washington, the following described real property, to wit: (Here place description of real property conveyed) and that the . . . . . has complied with the laws of the state of Washington necessary to entitle (him, or her or them) to a deed for the real property.

Now, therefore, know ye, that, I . . . . ., county treasurer of the county of . . . . ., state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases provided, do hereby grant and convey unto . . . . ., his or her heirs and assigns, forever, the real property hereinbefore described.

Given under my hand and seal of office this . . . . day of . . . . ., A.D. . . . .  
. . . . .  
County Treasurer.

Passed by the House March 9, 2019.  
Passed by the Senate April 3, 2019.  
Approved by the Governor April 17, 2019.  
Filed in Office of Secretary of State April 18, 2019.

**CHAPTER 29**

[House Bill 1743]

PREVAILING RATE OF WAGES--CERTAIN RESIDENTIAL CONSTRUCTION

AN ACT Relating to the methodology for establishing the prevailing rate of wages for the construction of affordable housing, homeless and domestic violence shelters, and low-income weatherization and home rehabilitation public works; reenacting and amending RCW 39.12.015; adding a new section to chapter 39.12 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature intends that the methodology for establishing the prevailing rates of wages under this act applies only to affordable housing, homeless and domestic violence shelters, and low-income weatherization and home rehabilitation programs.

**Sec. 2.** RCW 39.12.015 and 2018 c 248 s 1 and 2018 c 242 s 1 are each reenacted and amended to read as follows:

(1) All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries.

(2) The time period for recovery of any wages owed to a worker affected by the determination is tolled until the prevailing wage determination is final.

(3)(a) Except as provided in section 3 of this act, and notwithstanding RCW 39.12.010(1), the industrial statistician shall establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements for those trades and occupations that have collective bargaining agreements. For trades and occupations with more than one collective bargaining agreement in the county, the higher rate will prevail.

~~((4))~~ (b) For trades and occupations in which there are no collective bargaining agreements in the county, the industrial statistician shall establish the prevailing rate of wage as defined in RCW 39.12.010 by conducting wage and hour surveys. In instances when there are no applicable collective bargaining agreements and conducting wage and hour surveys is not feasible, the industrial statistician may employ other appropriate methods to establish the prevailing rate of wage.

NEW SECTION. **Sec. 3.** A new section is added to chapter 39.12 RCW to read as follows:

(1) For residential construction, the industrial statistician shall establish the prevailing rate of wage by conducting wage and hour surveys. If the industrial statistician determines that information received from a survey is insufficient to determine the prevailing rate of wage for a trade under this subsection, the industrial statistician shall employ other appropriate methods to establish the prevailing rate of wage.

(a) The industrial statistician shall conduct the initial surveys required by this subsection (1) as soon as feasible after the effective date of this section. These surveys shall cover fiscal year 2018.

(b) The industrial statistician shall conduct a wage and hour survey following the initial survey or otherwise reestablish a prevailing rate of wage for each trade covered by this section at least every five years, and after the initial survey may stagger the surveys for workload purposes.

(2)(a) Until the industrial statistician has established a prevailing wage rate under subsection (1)(a) of this section and except as provided in (b) of this subsection, the industrial statistician shall establish the wage rate by:

(i) Identifying the residential prevailing wage rate in effect on August 30, 2018, for that trade (rate A);

(ii) Determining the year most recent to 2018, but not earlier than 2007, in which the wage rate for that trade was adjusted (year A);

(iii) Determining the percentage change in the annual average hourly wages reported for construction workers in Washington state, as calculated by the United States bureau of labor statistics' state and area employment, hours, and earnings estimates, from year A to 2019;

(iv) Adding the percentage change from (a)(iii) of this subsection to one hundred percent (percentage A); and

(v) Multiplying rate A by percentage A.

(b) If the residential construction wage rate in effect for a trade on August 31, 2018, is the same as the wage rate in effect on August 30, 2018, the industrial statistician must adopt the wage rate in effect for the trade on August 31, 2018, until a wage rate is established under subsection (1)(a) of this section.

(3) For purposes of this section:

(a) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single-family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including the basement, in the following categories:

(i) Affordable housing, including permanent supportive housing and transitional housing, which may include common spaces, community rooms, recreational spaces, a management office, or offices for the purposes of service delivery;

(ii) Weatherization and home rehabilitation programs for low-income households; and

(iii) Homeless shelters and domestic violence shelters.

(b) "Residential construction" does not include the utilities construction, such as water and sewer lines, or work on streets, or work on other structures unrelated to the housing.

NEW SECTION. Sec. 4. The industrial statistician must establish and publish wage rates under section 3(2) of this act within thirty days after the effective date of this section. The wage rates take effect thirty days after publication.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 4, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 30

[Substitute House Bill 1764]

### FOUND PROPERTY--MONETARY THRESHOLDS

AN ACT Relating to adjusting monetary thresholds for found property; and amending RCW 63.21.050.

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

**Sec. 1.** RCW 63.21.050 and 1979 ex.s. c 85 s 5 are each amended to read as follows:

(1) The chief law enforcement officer or his or her designated representative to whom a finder surrenders property, ~~((shall))~~ must:

~~((1))~~ (a) Advise the finder if the found property is illegal for him or her to possess;

~~((2))~~ (b) Advise the finder if the found property is to be held as evidence in judicial or other official proceedings;

~~((3))~~ (c) Advise the finder in writing of the procedures to be followed in claiming the found property;

~~((4))~~ (d) If the property is valued at ~~((twenty-five))~~ one hundred dollars or less adjusted for inflation under subsection (2) of this section, allow the finder to retain the property if it is determined there is no reason for the officer to retain the property;

~~((5))~~ (e) If the property exceeds ~~((twenty-five))~~ one hundred dollars adjusted for inflation under subsection (2) of this section in value and has been requested to be surrendered to the law enforcement agency, retain the property for sixty days before it can be claimed by the finder under this chapter, unless the owner ~~((shall have))~~ has recovered the property;

~~((6))~~ (f) If the property is held as evidence in judicial or other official proceedings, retain the property for sixty days after the final disposition of the judicial or other official proceeding, before it can be claimed by the finder or owner under the provisions of this chapter;

~~((7))~~ (g) After the required number of days have passed, and if no owner has been found, surrender the property to the finder according to the requirements of this chapter; or

~~((8))~~ (h) If neither the finder nor the owner claim the property retained by the officer within thirty days of the time when the claim can be made, the property ~~((shall))~~ must be disposed of as unclaimed property under chapter 63.32 or 63.40 RCW.

(2)(a) The office of financial management must adjust the dollar thresholds established in subsection (1)(d) and (e) of this section for inflation every five years, beginning July 1, 2025, based upon changes in the Seattle consumer price index during that time period. The office of financial management must calculate the new dollar threshold and transmit the new dollar threshold, rounded up to the nearest dollar, to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(b) For the purposes of determining the thresholds in subsection (1)(d) and (e) of this section, the chief law enforcement officer or his or her designated representative must use the latest thresholds published by the office of financial management in the Washington State Register under (a) of this subsection.

Passed by the House March 4, 2019.

Passed by the Senate April 3, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 31

[Engrossed House Bill 1777]

CERTIFICATE OF NEED--EXEMPTION--CERTAIN AMBULATORY SURGICAL FACILITIES

AN ACT Relating to exempting certain existing ambulatory surgical facilities from certificate of need; and amending RCW 70.38.111.

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

**Sec. 1.** RCW 70.38.111 and 2017 c 199 s 1 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient tertiary health service by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization; if, with respect to such offering or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements; and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such

facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless:

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use; or

(b) The department determines, upon application, that (i) the entity to which the facility is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility, meets the requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements to the offering of inpatient tertiary health services to the extent that such offering is not exempt under the provisions of this section or RCW 70.38.105(7).

(5)(a) The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that:

(i) Offers services only to contractual members;

(ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;

(iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;

(iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;

(v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;

(vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and

(vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

(b) A continuing care retirement community shall not be exempt under this subsection from obtaining a certificate of need unless:

(i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and

(ii) The application documents to the department that the continuing care retirement community qualifies for exemption.

(c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

(8) A rural hospital determined to no longer meet critical access hospital status for state law purposes as a result of participation in the Washington rural health access preservation pilot identified by the state office of rural health and formerly licensed as a hospital under chapter 70.41 RCW may apply to the department to renew its hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW. If all or part of a formerly licensed rural hospital is sold, purchased, or leased during the period the rural hospital does not meet critical access hospital status as a result of participation in the Washington rural health access preservation pilot and the new owner or lessor applies to renew the rural hospital's license, then the sale, purchase, or lease of part or all of the rural hospital is subject to the provisions of this chapter.

(9)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed assisted living facility care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for



residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds shall reflect the conditions or standards that then existed pursuant to the approved waivers.

(b) To convert beds back to nursing home beds under this subsection, the nursing home must:

(i) Give notice of its intent to preserve conversion options to the department of health no later than thirty days after the effective date of the license reduction; and

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ninety days prior to the effective date of license modification reflecting the restored beds. Prior to any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

The term "construction," as used in (b)(ii) of this subsection, is limited to those projects that are expected to equal or exceed the expenditure minimum amount, as determined under this chapter.

(c) Conversion of beds back under this subsection must be completed no later than four years after the effective date of the license reduction. However, for good cause shown, the four-year period for conversion may be extended by the department of health for one additional four-year period.

(d) Nursing home beds that have been voluntarily reduced under this section shall be counted as available nursing home beds for the purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the facility retains the ability to convert them back to nursing home use under the terms of this section.

(e) When a building owner has secured an interest in the nursing home beds, which are intended to be voluntarily reduced by the licensee under (a) of this subsection, the applicant shall provide the department with a written statement indicating the building owner's approval of the bed reduction.

(10)(a) The department shall not require a certificate of need for a hospice agency if:

(i) The hospice agency is designed to serve the unique religious or cultural needs of a religious group or an ethnic minority and commits to furnishing hospice services in a manner specifically aimed at meeting the unique religious or cultural needs of the religious group or ethnic minority;

(ii) The hospice agency is operated by an organization that:

(A) Operates a facility, or group of facilities, that offers a comprehensive continuum of long-term care services, including, at a minimum, a licensed, medicare-certified nursing home, assisted living, independent living, day health,

and various community-based support services, designed to meet the unique social, cultural, and religious needs of a specific cultural and ethnic minority group;

(B) Has operated the facility or group of facilities for at least ten continuous years prior to the establishment of the hospice agency;

(iii) The hospice agency commits to coordinating with existing hospice programs in its community when appropriate;

(iv) The hospice agency has a census of no more than forty patients;

(v) The hospice agency commits to obtaining and maintaining medicare certification;

(vi) The hospice agency only serves patients located in the same county as the majority of the long-term care services offered by the organization that operates the agency; and

(vii) The hospice agency is not sold or transferred to another agency.

(b) The department shall include the patient census for an agency exempted under this subsection (10) in its calculations for future certificate of need applications.

(11) To alleviate the need to board psychiatric patients in emergency departments, for the period of time from May 5, 2017, through June 30, 2019:

(a) The department shall suspend the certificate of need requirement for a hospital licensed under chapter 70.41 RCW that changes the use of licensed beds to increase the number of beds to provide psychiatric services, including involuntary treatment services. A certificate of need exemption under this subsection (11)(a) shall be valid for two years.

(b) The department may not require a certificate of need for:

(i) The addition of beds as described in RCW 70.38.260 (2) and (3); or

(ii) The construction, development, or establishment of a psychiatric hospital licensed as an establishment under chapter 71.12 RCW that will have no more than sixteen beds and provide treatment to adults on ninety or one hundred eighty-day involuntary commitment orders, as described in RCW 70.38.260(4).

(12)(a) An ambulatory surgical facility is exempt from all certificate of need requirements if the facility:

(i) Is an individual or group practice and, if the facility is a group practice, the privilege of using the facility is not extended to physicians outside the group practice;

(ii) Operated or received approval to operate, prior to January 19, 2018; and

(iii) Was exempt from certificate of need requirements prior to January 19, 2018, because the facility either:

(A) Was determined to be exempt from certificate of need requirements pursuant to a determination of reviewability issued by the department; or

(B) Was a single-specialty endoscopy center in existence prior to January 14, 2003, when the department determined that endoscopy procedures were surgeries for purposes of certificate of need.

(b) The exemption under this subsection:

(i) Applies regardless of future changes of ownership, corporate structure, or affiliations of the individual or group practice as long as the use of the facility remains limited to physicians in the group practice; and

(ii) Does not apply to changes in services, specialties, or number of operating rooms.

Passed by the House March 8, 2019.  
 Passed by the Senate April 3, 2019.  
 Approved by the Governor April 17, 2019.  
 Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 32

[House Bill 1852]

### PROPERTY TAX REFUNDS--MANIFEST ERRORS

AN ACT Relating to property tax refunds more than three years after the due date resulting from certain manifest errors; and amending RCW 84.69.030.

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

**Sec. 1.** RCW 84.69.030 and 2015 c 174 s 1 are each amended to read as follows:

(1) Except as provided in this section, no orders for a refund under this chapter may be made except on a claim:

(a) Verified by the person who paid the tax, the person's guardian, executor, or administrator; and

(b) Filed with the county treasurer within three years after the due date of the payment sought to be refunded; and

(c) Stating the statutory ground upon which the refund is claimed.

(2) No claim for an order of refund is required for a refund that is based upon:

(a) An order of the board of equalization, state board of tax appeals, or court of competent jurisdiction justifying a refund under RCW 84.69.020 (9) through (12);

(b) A decision by the treasurer or assessor that is rendered within three years after the due date of the payment to be refunded, justifying a refund under RCW 84.69.020; or

(c) A decision by the assessor or department approving an exemption application that is filed under chapter 84.36 RCW within three years after the due date of the payment to be refunded.

(3) A county legislative authority may authorize a refund ~~((on a claim filed))~~ to be processed more than three years after the due date of the payment ~~((sought))~~ to be refunded if the ~~((claim))~~ refund arises from taxes paid as a result of a manifest error in a description of property.

Passed by the House March 4, 2019.  
 Passed by the Senate April 3, 2019.  
 Approved by the Governor April 17, 2019.  
 Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 33

[Substitute House Bill 1870]

### FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT--STATE LAW

AN ACT Relating to making state law consistent with selected federal consumer protections in the patient protection and affordable care act; amending RCW 48.43.005, 48.43.012, 48.21.270, 48.44.380, 48.46.460, 48.43.715, and 48.43.0122; adding new sections to chapter 48.43 RCW;

adding a new section to chapter 43.71 RCW; repealing RCW 48.43.015, 48.43.017, 48.43.018, and 48.43.025; prescribing penalties; and declaring an emergency.

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

## PART I

### DEFINITIONS

**Sec. 1.** RCW 48.43.005 and 2016 c 65 s 2 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered

benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW

48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

- (a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;
- (b) Medicare supplemental health insurance governed by chapter 48.66 RCW;
- (c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;
- (d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;
- (e) Disability income;
- (f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;
- (g) Workers' compensation coverage;
- (h) Accident only coverage;
- (i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;
- (j) Employer-sponsored self-funded health plans;
- (k) Dental only and vision only coverage;
- (l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; and
- (m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.



(38) "Essential health benefit categories" means:

(a) Ambulatory patient services;

(b) Emergency services;

(c) Hospitalization;

(d) Maternity and newborn care;

(e) Mental health and substance use disorder services, including behavioral health treatment;

(f) Prescription drugs;

(g) Rehabilitative and habilitative services and devices;

(h) Laboratory services;

(i) Preventive and wellness services and chronic disease management; and

(j) Pediatric services, including oral and vision care.

## PART II

### GUARANTEED ISSUE AND ELIGIBILITY

**Sec. 2.** RCW 48.43.012 and 2011 c 315 s 3 are each amended to read as follows:

(1) No carrier may reject an individual for an individual or group health benefit plan based upon preexisting conditions of the individual (~~except as provided in RCW 48.43.018~~).

(2) No carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions (~~except as provided in this section~~) including, but not limited to, preexisting condition exclusions or waiting periods.

(3) (~~For an individual health benefit plan originally issued on or after March 23, 2000, preexisting condition waiting periods imposed upon a person enrolling in an individual health benefit plan shall be no more than nine months for a preexisting condition for which medical advice was given, for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months prior to the effective date of the plan. No carrier may impose a preexisting condition waiting period on an individual health benefit plan issued to an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).~~)

(4) Individual health benefit plan preexisting condition waiting periods shall not apply to prenatal care services.

~~(5))~~ No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals who are higher than average health risks. These provisions apply only to individuals who are Washington residents.

~~((6) For any person under age nineteen applying for coverage as allowed by RCW 48.43.0122(1) or enrolled in a health benefit plan subject to sections 1201 and 10103 of the patient protection and affordable care act (P.L. 111-148) that is not a grandfathered health plan in the individual market, a carrier must not impose a preexisting condition exclusion or waiting period or other limitations on benefits or enrollment due to a preexisting condition.))~~

(4) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance

in effect on January 1, 2017, implementing the patient protection and affordable care act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier or health plan may not establish rules for eligibility, including continued eligibility, of any individual to enroll under the terms of the plan or coverage based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

- (a) Health status;
- (b) Medical condition, including both physical and mental illnesses;
- (c) Claims experience;
- (d) Receipt of health care;
- (e) Medical history;
- (f) Genetic information;
- (g) Evidence of insurability, including conditions arising out of acts of domestic violence;
- (h) Disability; or
- (i) Any other health status-related factor determined appropriate by the commissioner.

(2) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

**Sec. 4.** RCW 48.21.270 and 2011 c 314 s 2 are each amended to read as follows:

(1) An insurer shall not require proof of insurability as a condition for issuance of the conversion policy.

(2) A conversion policy may not contain an exclusion for preexisting conditions for any applicant (~~who is under age nineteen. For policies issued to those age nineteen and older, an exclusion for a preexisting condition is permitted only to the extent that a waiting period for a preexisting condition has not been satisfied under the group policy~~).

(3) An insurer must offer at least three policy benefit plans that comply with the following:

- (a) A major medical plan with a five thousand dollar deductible per person;
- (b) A comprehensive medical plan with a five hundred dollar deductible per person; and
- (c) A basic medical plan with a one thousand dollar deductible per person.

(4) The insurance commissioner may revise the deductible amounts in subsection (3) of this section from time to time to reflect changing health care costs.

(5) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion policies.

(6) The commissioner shall adopt rules to establish specific standards for conversion policy provisions. These rules may include but are not limited to:

- (a) Terms of renewability;
- (b) Nonduplication of coverage;
- (c) Benefit limitations, exceptions, and reductions; and

(d) Definitions of terms.

**Sec. 5.** RCW 48.44.380 and 2011 c 314 s 7 are each amended to read as follows:

(1) A health care service contractor shall not require proof of insurability as a condition for issuance of the conversion contract.

(2) A conversion contract may not contain an exclusion for preexisting conditions for any applicant (~~(who is under age nineteen. For policies issued to those age nineteen and older, an exclusion for a preexisting condition is permitted only to the extent that a waiting period for a preexisting condition has not been satisfied under the group contract)).~~

(3) A health care service contractor must offer at least three contract benefit plans that comply with the following:

(a) A major medical plan with a five thousand dollar deductible per person;

(b) A comprehensive medical plan with a five hundred dollar deductible per person; and

(c) A basic medical plan with a one thousand dollar deductible per person.

(4) The insurance commissioner may revise the deductible amounts in subsection (3) of this section from time to time to reflect changing health care costs.

(5) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion contracts.

(6) The commissioner shall adopt rules to establish specific standards for conversion contract provisions. These rules may include but are not limited to:

(a) Terms of renewability;

(b) Nonduplication of coverage;

(c) Benefit limitations, exceptions, and reductions; and

(d) Definitions of terms.

**Sec. 6.** RCW 48.46.460 and 2011 c 314 s 9 are each amended to read as follows:

(1) A health maintenance organization must offer a conversion agreement for comprehensive health care services and shall not require proof of insurability as a condition for issuance of the conversion agreement.

(2) A conversion agreement may not contain an exclusion for preexisting conditions for an applicant (~~(who is under age nineteen. For policies issued to those age nineteen and older, an exclusion for a preexisting condition is permitted only to the extent that a waiting period for a preexisting condition has not been satisfied under the group agreement)).~~

(3) A conversion agreement need not provide benefits identical to those provided under the group agreement. The conversion agreement may contain provisions requiring the person covered by the conversion agreement to pay reasonable deductibles and copayments, except for preventive service benefits as defined in 45 C.F.R. 147.130 (2010), implementing sections 2701 through 2763, 2791, and 2792 of the public health service act (42 U.S.C. 300gg through 300gg-63, 300gg-91, and 300gg-92), as amended.

(4) The insurance commissioner shall adopt rules to establish minimum benefit standards for conversion agreements.

(5) The commissioner shall adopt rules to establish specific standards for conversion agreement provisions. These rules may include but are not limited to:

- (a) Terms of renewability;
- (b) Nonduplication of coverage;
- (c) Benefit limitations, exceptions, and reductions; and
- (d) Definitions of terms.

NEW SECTION. **Sec. 7.** The following acts or parts of acts are each repealed:

(1) RCW 48.43.015 (Health benefit plans—Preexisting conditions) and 2012 c 64 s 2, 2004 c 192 s 5, 2001 c 196 s 7, 2000 c 80 s 3, 2000 c 79 s 20, & 1995 c 265 s 5;

(2) RCW 48.43.017 (Organ transplant benefit waiting periods—Prior creditable coverage) and 2009 c 82 s 2;

(3) RCW 48.43.018 (Requirement to complete the standard health questionnaire—Exemptions—Results) and 2012 c 211 s 16, 2012 c 64 s 1, 2010 c 277 s 1, & 2009 c 42 s 1; and

(4) RCW 48.43.025 (Group health benefit plans—Preexisting conditions) and 2001 c 196 s 9, 2000 c 79 s 23, & 1995 c 265 s 6.

### PART III

#### PROHIBITING UNFAIR RESCISSIONS

NEW SECTION. **Sec. 8.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health plan or health carrier offering group or individual coverage may not rescind such coverage with respect to an enrollee once the enrollee is covered under the plan or coverage involved, except that this section does not apply to a covered person who has performed an act or practice that constitutes fraud or makes an intentional misrepresentation of material fact as prohibited by the terms of the plan or coverage. The plan or coverage may not be canceled except as permitted under RCW 48.43.035 or 48.43.038.

(2) The commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

### PART IV

#### ESSENTIAL HEALTH BENEFITS

**Sec. 9.** RCW 48.43.715 and 2013 c 325 s 1 are each amended to read as follows:

(1) ~~((Consistent with federal law,))~~ The commissioner, in consultation with the board and the health care authority, shall, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for the individual and small group market for purposes of establishing the essential health benefits in Washington state ~~((under P.L. 111-148 of 2010, as amended))~~.

(2) If the essential health benefits benchmark plan for the individual and small group market does not include all of the ten essential health benefits categories ~~((specified by section 1302 of P.L. 111-148, as amended))~~, the commissioner, in consultation with the board and the health care authority, shall, by rule, supplement the benchmark plan benefits as needed ~~((to meet the minimum requirements of section 1302))~~.

(3) ~~((A))~~ All individual and small group health plans ~~((required to offer))~~ must cover the ten essential health benefits categories, other than a health plan offered through the federal basic health program, a grandfathered health plan, or

medicaid(~~(, under P.L. 111-148 of 2010, as amended,)~~). Such a health plan may not be offered in the state unless the commissioner finds that it is substantially equal to the benchmark plan. When making this determination, the commissioner:

(a) Must ensure that the plan covers the ten essential health benefits categories (~~(specified in section 1302 of P.L. 111-148 of 2010, as amended)~~);

(b) May consider whether the health plan has a benefit design that would create a risk of biased selection based on health status and whether the health plan contains meaningful scope and level of benefits in each of the ten essential health benefits categories (~~(specified by section 1302 of P.L. 111-148 of 2010, as amended)~~);

(c) Notwithstanding (~~(the foregoing)~~) (a) and (b) of this subsection, for benefit years beginning January 1, 2015, (~~(and only to the extent permitted by federal law and guidance,)~~) must establish by rule the review and approval requirements and procedures for pediatric oral services when offered in stand-alone dental plans in the nongrandfathered individual and small group markets outside of the exchange; and

(d) (~~(Unless prohibited by federal law and guidance,)~~) Must allow health carriers to also offer pediatric oral services within the health benefit plan in the nongrandfathered individual and small group markets outside of the exchange.

(4) Beginning December 15, 2012, and every year thereafter, the commissioner shall submit to the legislature a list of state-mandated health benefits, the enforcement of which will result in federally imposed costs to the state related to the plans sold through the exchange because the benefits are not included in the essential health benefits designated under federal law. The list must include the anticipated costs to the state of each state-mandated health benefit on the list and any statutory changes needed if funds are not appropriated to defray the state costs for the listed mandate. The commissioner may enforce a mandate on the list for the entire market only if funds are appropriated in an omnibus appropriations act specifically to pay the state portion of the identified costs.

## PART V COST SHARING

NEW SECTION. Sec. 10. A new section is added to chapter 48.43 RCW to read as follows:

(1) For plan years beginning in 2020, the cost sharing incurred under a health plan for the essential health benefits may not exceed the following amounts:

(a) For self-only coverage:

(i) The amount required under federal law for the calendar year; or

(ii) If there are no cost-sharing requirements under federal law, eight thousand two hundred dollars increased by the premium adjustment percentage for the calendar year.

(b) For coverage other than self-only coverage:

(i) The amount required under federal law for the calendar year; or

(ii) If there are no cost-sharing requirements under federal law, sixteen thousand four hundred dollars increased by the premium adjustment percentage for the calendar year.

(2) Regardless of whether an enrollee is covered by a self-only plan or a plan that is other than self-only, the enrollee's cost sharing for the essential health benefits may not exceed the self-only annual limitation on cost sharing.

(3) For purposes of this section, "the premium adjustment percentage for the calendar year" means the percentage, if any, by which the average per capita premium for health insurance in Washington for the preceding year, as estimated by the commissioner no later than April 1st of such preceding year, exceeds such average per capita premium for 2020 as determined by the commissioner.

(4) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

## PART VI OPEN ENROLLMENT PERIODS

**Sec. 11.** RCW 48.43.0122 and 2011 c 315 s 4 are each amended to read as follows:

(1) The commissioner shall adopt rules establishing and implementing requirements for the open enrollment periods and special enrollment periods that carriers must follow for individual health benefit plans (~~(and enrollment of persons under age nineteen)~~).

(2) The commissioner shall monitor the sale of individual health benefit plans and if a carrier refuses to sell guaranteed issue policies to persons (~~(under age nineteen)~~) in compliance with rules adopted by the commissioner pursuant to subsection (1) of this section, the commissioner may levy fines or suspend or revoke a certificate of authority as provided in chapter 48.05 RCW.

## PART VII LIFETIME LIMITS

NEW SECTION. **Sec. 12.** A new section is added to chapter 48.43 RCW to read as follows:

A health carrier may not impose annual or lifetime dollar limits on an essential health benefit, other than those permitted as reference-based limitations under rules adopted by the commissioner.

## PART VIII EXPLANATION OF COVERAGE

NEW SECTION. **Sec. 13.** A new section is added to chapter 48.43 RCW to read as follows:

(1) The commissioner shall develop standards for use by a health carrier offering individual or group coverage, in compiling and providing to applicants and enrollees a summary of benefits and coverage explanation that accurately describes the benefits and coverage under the applicable plan. In developing the standards, the commissioner must use the standards developed under 42 U.S.C. Sec. 300gg-15 in use on the effective date of this section.

(2) The standards must provide for the following:

(a) The standards must ensure that the summary of benefits and coverage is presented in a uniform format that does not exceed four pages in length and does not include print smaller than twelve-point font.

(b) The standards must ensure that the summary is presented in a culturally and linguistically appropriate manner and utilizes terminology understandable by the average plan enrollee.

(c) The standards must ensure that the summary of benefits and coverage includes:

(i) Uniform definitions of standard insurance and medical terms, consistent with the standard definitions developed under this section, so that consumers may compare health insurance coverage and understand the terms of coverage, or exceptions to such coverage;

(ii) A description of the coverage, including cost sharing for:

(A) The essential health benefits; and

(B) Other benefits identified by the commissioner;

(iii) The exceptions, reductions, and limitations on coverage;

(iv) The cost-sharing provisions, including deductible, coinsurance, and copayment obligations;

(v) The renewability and continuation of coverage provisions;

(vi) A coverage facts label that includes examples to illustrate common benefits scenarios, including pregnancy and serious or chronic medical conditions and related cost sharing. The scenarios must be based on recognized clinical practice guidelines;

(vii) A statement of whether the plan:

(A) Provides minimum essential coverage under 26 U.S.C. Sec. 5000A(f); and

(B) Ensures that the plan share of the total allowed costs of benefits provided under the plan is no less than sixty percent of the costs;

(viii) A statement that the outline is a summary of the policy or certificate and that the coverage document itself should be consulted to determine the governing contractual provisions; and

(ix) A contact number for the consumer to call with additional questions and a web site where a copy of the actual individual coverage policy or group certificate of coverage may be reviewed and obtained.

(3) The commissioner shall periodically review and update the standards developed under this section.

(4) A health carrier must provide a summary of benefits and coverage explanation to:

(a) An applicant at the time of application;

(b) An enrollee prior to the time of enrollment or reenrollment, as applicable; and

(c) A policyholder or certificate holder at the time of issuance of the policy or delivery of the certificate.

(5) A health carrier may provide the summary of benefits and coverage either in paper or electronically.

(6) If a health carrier makes any material modification in any of the terms of the plan that is not reflected in the most recently provided summary of benefits and coverage, the carrier shall provide notice of the modification to enrollees no later than sixty days prior to the date on which the modification will become effective.

(7) A health carrier that fails to provide the information required under this section is subject to a fine of no more than one thousand dollars for each failure.

A failure with respect to each enrollee constitutes a separate offense for purposes of this subsection.

(8) The commissioner shall, by rule, provide for the development of standards for the definitions of terms used in health insurance coverage, including the following:

(a) Insurance-related terms, including premium; deductible; coinsurance; copayment; out-of-pocket limit; preferred provider; nonpreferred provider; out-of-network copayments; usual, customary, and reasonable fees; excluded services; grievance; appeals; and any other terms the commissioner determines are important to define so that consumers may compare health insurance coverage and understand the terms of their coverage; and

(b) Medical terms, including hospitalization, hospital outpatient care, emergency room care, physician services, prescription drug coverage, durable medical equipment, home health care, skilled nursing care, rehabilitation services, hospice services, emergency medical transportation, and any other terms the commissioner determines are important to define so that consumers may compare the medical benefits offered by health insurance and understand the extent of those medical benefits or exceptions to those benefits.

(9) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

#### **PART IX WAITING PERIODS FOR GROUP COVERAGE**

NEW SECTION. Sec. 14. A new section is added to chapter 48.43 RCW to read as follows:

(1) A group health plan and a health carrier offering group health coverage may not apply any waiting period that exceeds ninety days.

(2) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

#### **PART X PROHIBITING ISSUER AND HEALTH PLAN DISCRIMINATION**

NEW SECTION. Sec. 15. A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier offering a nongrandfathered health plan in the individual or small group market may not:

(a) In its benefit design or implementation of its benefit design, discriminate against individuals because of their age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions; and

(b) With respect to the health plan, discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation.

(2) Nothing in this section may be construed to prevent an issuer from appropriately utilizing reasonable medical management techniques.

(3) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance



in effect on January 1, 2017, implementing the patient protection and affordable care act.

NEW SECTION. Sec. 16. A new section is added to chapter 43.71 RCW to read as follows:

(1) For qualified health plans, an issue offering a qualified health plan may not employ marketing practices or benefit designs that have the effect of discouraging enrollment in the plan by individuals with significant health needs.

(2) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

NEW SECTION. Sec. 17. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 1, 2019.

Passed by the Senate March 27, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 34

[Substitute House Bill 1909]

### INDUSTRIAL INSURANCE CLAIM RECORDS--CONFIDENTIALITY

AN ACT Relating to protecting the confidentiality of industrial insurance claim records; amending RCW 51.28.070; and prescribing penalties.

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

**Sec. 1.** RCW 51.28.070 and 1990 c 209 s 2 are each amended to read as follows:

(1) Information contained in the claim files and records of injured workers, under the provisions of this title, shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but representatives of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant.

(2) A claimant may review his or her claim file if the director determines, pursuant to criteria adopted by rule, that the review is in the claimant's interest.

(3)(a) Employers or their duly authorized representatives may review any files of their own injured workers in connection with any pending claims.

(b) If the employer or the employer's duly authorized representative reveals information in a claim file regarding a mental health condition or treatment to any person other than a duly authorized representative, the employer is subject to a civil penalty of one thousand dollars for each occurrence. The department must investigate a complaint and must issue a notice of assessment if it determines that the employer or the employer's duly authorized representative violated this subsection. The determination may be protested to the department or appealed to the board of industrial insurance appeals. Once the order is final, the amount due shall be collected in accordance with RCW 51.48.140 and 51.48.150 and deposited in the supplemental pension fund.

(4) The department shall ensure that employers and workers are notified upon the allowance of a claim of their rights and responsibilities under this section.

(5) Physicians treating or examining workers claiming benefits under this title, or physicians giving medical advice to the department regarding any claim may, at the discretion of the department, inspect the claim files and records of injured workers, and other persons may make such inspection, at the department's discretion, when such persons are rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this title.

Passed by the House March 6, 2019.

Passed by the Senate April 3, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 35

[Substitute House Bill 1949]

### FIREARM BACKGROUND CHECK SYSTEM--FEASIBILITY STUDY

AN ACT Relating to conducting a feasibility study to examine and make recommendations regarding the establishment of a single point of contact firearm background check system; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) Subject to the availability of amounts appropriated for this specific purpose, the office of financial management shall conduct a feasibility study and make recommendations regarding the establishment of a single point of contact, also known as a full point of contact, system for firearm background checks. The office of financial management may contract with an independent expert to assist with the feasibility study. The study must consider and make recommendations regarding, but not limited to, the following:

(a) Whether or not public safety in Washington could be improved by implementing a single point of contact system in Washington;

(b) Whether a single point of contact system in Washington would more effectively keep prohibited persons from obtaining firearms while continuing to respect a person's right to bear arms consistent with Article 1, section 24 of the state Constitution and the Second Amendment of the Constitution of the United States;

(c) Whether a single point of contact system in Washington would simplify the background check process for those purchasing firearms, firearms dealers, and law enforcement agencies;

(d) The feasibility of creating a single point of contact system within the Washington state patrol or the Washington association of sheriffs and police chiefs, creating a new agency for this purpose, or a combination of these options;

(e) What computer system improvements would need to be made to most effectively and efficiently administer a single point of contact system in Washington; and

(f) The approximate cost to establish a single point of contact system in Washington, and the approximate annual cost to operate such a system.

(2) The office of financial management shall submit a final report to the governor and the appropriate committees of the legislature by December 1, 2019.

(3) The office of financial management and its agents and employees are immune from civil liability arising out of their work pursuant to this section unless it is shown that the office of financial management or its agents and employees acted with gross negligence or bad faith.

(4) This section expires July 1, 2020.

Passed by the House March 6, 2019.

Passed by the Senate April 3, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 36

[House Bill 2038]

### PAVEMENT CONDITION REPORTING

AN ACT Relating to pavement condition reporting requirements; adding a new section to chapter 47.04 RCW; and repealing RCW 46.68.113.

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

**NEW SECTION. Sec. 1.** RCW 46.68.113 (Preservation rating information—Review) and 2017 c 139 s 1, 2013 c 306 s 704, 2011 c 353 s 7, 2006 c 334 s 21, & 2003 c 363 s 305 are each repealed.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.04 RCW to read as follows:

Given the importance of cost-effective asset management and maintaining a state of good repair, the department shall continue to collect preservation rating information for all types of highways for which it collects this information as of the effective date of this section.

Passed by the House March 8, 2019.

Passed by the Senate April 8, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 37

[Senate Bill 5002]

### LIMITED COOPERATIVE ASSOCIATIONS

AN ACT Relating to limited cooperative associations; amending RCW 23.95.105, 23.95.305, and 23.86.030; adding a new section to chapter 23.86 RCW; adding a new section to chapter 24.06 RCW; and adding a new chapter to Title 23 RCW.

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

**PART 1**  
**GENERAL PROVISIONS**

NEW SECTION. Sec. 101. SHORT TITLE. This chapter may be cited as the Washington limited cooperative association act.

NEW SECTION. Sec. 102. DEFINITIONS. (1) In this chapter, except for sections 1301 through 1320 of this act:

(a) "Articles of organization" means the articles of organization of a limited cooperative association required by section 201 of this act. The term includes the articles as amended or restated.

(b) "Board of directors" means the board of directors of a limited cooperative association.

(c) "Bylaws" means the bylaws of a limited cooperative association. The term includes the bylaws as amended or restated.

(d) "Consumer cooperative" means a cooperative engaged in the retail sale, to its members and other consumers, of goods or services of a type that are generally for personal, living, or family use.

(e) "Contribution," except as used in section 807(3) of this act, means a benefit that a person provides to a limited cooperative association to become or remain a member or in the person's capacity as a member.

(f) "Cooperative" means a limited cooperative association or an entity organized under any cooperative law of any jurisdiction.

(g) "Director" means a director of a limited cooperative association.

(h) "Distribution," except as used in section 806(1) of this act, means a transfer of money or other property from a limited cooperative association to a member because of the member's financial rights or to a transferee of a member's financial rights.

(i) "Financial rights" means the right to participate in allocations and distributions as provided in sections 801 through 809 and 1001 through 1013 of this act but does not include rights or obligations under a marketing contract.

(j) "Governance rights" means the right to participate in governance of a limited cooperative association.

(k) "Investor member" means a member that has made a contribution to a limited cooperative association and:

(i) Is not required by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest; or

(ii) Is not permitted by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest.

(l) "Limited cooperative association" means an association formed under this chapter or that becomes subject to this chapter under sections 1301 through 1320 of this act.

(m) "Member" means a person that is admitted as a patron member or investor member, or both, in a limited cooperative association. The term does not include a person that has dissociated as a member.

(n) "Member's interest" means the interest of a patron member or investor member under section 501 of this act.

(o) "Members meeting" means an annual members meeting or special meeting of members.

(p) "Organic rules" means the articles of organization and bylaws of a limited cooperative association.

(q) "Organizer" means an individual who executes the initial articles of organization.

(r) "Patron member" means a member that has made a contribution to a limited cooperative association and:

(i) Is required by the organic rules to conduct patronage with the association in the member's capacity as a patron member in order to receive the member's interest; or

(ii) Is permitted by the organic rules to conduct patronage with the association in the member's capacity as a patron member in order to receive the member's interest.

(s) "Patronage" means business transactions between a limited cooperative association and a person which entitles the person to receive financial rights based on the value or quantity of business done between the association and the person.

(t) "Required information" means the information a limited cooperative association is required to maintain under section 110 of this act.

(u) "Voting group" means any combination of one or more voting members in one or more districts or classes that under the organic rules or chapter 23.95 RCW or this chapter are entitled to vote and can be counted together collectively on a matter at a members meeting.

(v) "Voting member" means a member that, under the organic law or organic rules, has a right to vote on matters subject to vote by members under the organic law or organic rules.

(w) "Voting power" means the total current power of members to vote on a particular matter for which a vote may or is to be taken.

(2) The following definitions from RCW 23.95.105 apply to this chapter: "Entity," "execute," "executes," and "executed," "foreign," "jurisdiction," "jurisdiction of formation," "organic law," "organic rules," "person," "principal office," "property," "receipt," "record," "registered agent," "state," and "transfer."

**NEW SECTION. Sec. 103. NATURE OF LIMITED COOPERATIVE ASSOCIATION.** (1) A limited cooperative association organized under this chapter is an autonomous, unincorporated association of persons united to meet their mutual interests through a jointly owned enterprise primarily controlled by those persons, which permits combining:

(a) Ownership, financing, and receipt of benefits by the members for whose interests the association is formed; and

(b) Separate investments in the association by members who may receive returns on their investments and a share of control.

(2) The fact that a limited cooperative association does not have one or more of the characteristics described in subsection (1) of this section does not alone prevent the association from being formed under and governed by this chapter nor does it alone provide a basis for an action against the association.

**NEW SECTION. Sec. 104. PURPOSE AND DURATION OF LIMITED COOPERATIVE ASSOCIATION.** (1) A limited cooperative association is an entity distinct from its members.

(2) A limited cooperative association may be organized for any lawful purpose, regardless of whether for profit, except that a limited cooperative association may not be organized for the purpose of generating, purchasing, selling, marketing, transmitting, or distributing electric energy.

(3) Unless the articles of organization state a term for a limited cooperative association's existence, the association has perpetual duration.

**NEW SECTION. Sec. 105. POWERS.** Unless its articles of organization provide otherwise, a limited cooperative association has the capacity to sue and be sued in its own name and has the power to do all things necessary or convenient to carry on its activities and affairs. An association may maintain an action against a member for harm caused to the association by the member's violation of a duty to the association or of the organic law or organic rules.

**NEW SECTION. Sec. 106. GOVERNING LAW.** The law of this state governs:

(1) The internal affairs of a limited cooperative association; and

(2) The liability of a member as a member and a director as a director for the debts, obligations, or other liabilities of a limited cooperative association.

**NEW SECTION. Sec. 107. REQUIREMENTS OF OTHER LAWS.** (1) This chapter does not alter or amend any law that governs the licensing and regulation of an individual or entity in carrying on a specific business or profession even if that law permits the business or profession to be conducted by a limited cooperative association, a foreign cooperative, or members of either.

(2) A limited cooperative association may not conduct an activity that, under law of this state other than this chapter, may be conducted only by an entity that meets specific requirements for the internal affairs of that entity unless the organic rules of the association conform to those requirements.

**NEW SECTION. Sec. 108. RELATION TO RESTRAINT OF TRADE AND ANTITRUST LAWS.** To the extent a limited cooperative association or activities conducted by the association in this state meet the material requirements for other cooperatives entitled to an exemption from or immunity under any provision of RCW 19.86.030 through 19.86.050, the association and its activities are entitled to the exemption or immunity. This section does not create any new exemption or immunity for an association or affect any exemption or immunity provided to a cooperative organized under any law other than this chapter.

**NEW SECTION. Sec. 109. EFFECT OF ORGANIC RULES.** (1) The relations between a limited cooperative association and its members are consensual. Unless required, limited, or prohibited by this chapter, the organic rules may provide for any matter concerning the relations among the members of the association and between the members and the association, the activities of the association, and the conduct of its activities.

(2) The matters referred to in (a) through (k) of this subsection may be varied only in the articles of organization. The articles may:

(a) State a term of existence for the association under section 104(3) of this act;

(b) Limit or eliminate the acceptance of new or additional members by the initial board of directors under section 202(2) of this act;

(c) Vary the limitations on the obligations and liability of members for association obligations under section 404 of this act;

(d) Require a notice of an annual members meeting to state a purpose of the meeting under section 408(2) of this act;

(e) Vary the board of directors meeting quorum under section 615(1) of this act;

(f) Vary the matters the board of directors may consider in making a decision under section 620 of this act;

(g) Specify causes of dissolution under section 1002(1) of this act;

(h) Delegate amendment of the bylaws to the board of directors pursuant to section 305(6) of this act;

(i) Provide for member approval of asset dispositions under section 1201 of this act;

(j) Subject to section 620 of this act, provide for the elimination or limitation of liability of a director to the association or its members for money damages pursuant to section 618 of this act;

(k) Provide for permitting or making obligatory indemnification under section 701(1) of this act; and

(l) Provide for any matters that may be contained in the organic rules, including those under subsection (3) of this section.

(3) The matters referred to in (a) through (y) of this subsection may be varied only in the organic rules. The organic rules may:

(a) Require more information to be maintained under section 110 of this act or provided to members under section 405(10) of this act;

(b) Provide restrictions on transactions between a member and an association under section 111 of this act;

(c) Provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under section 304(1) of this act;

(d) Provide for the percentage vote required to amend the bylaws concerning the admission of new members under section 305(5)(e) of this act;

(e) Provide for terms and conditions to become a member under section 402 of this act;

(f) Restrict the manner of conducting members meetings under sections 406(3) and 407(5) of this act;

(g) Designate the presiding officer of members meetings under sections 406(5) and 407(7) of this act;

(h) Require a statement of purposes in the annual meeting notice under section 408(2) of this act;

(i) Increase quorum requirements for members meetings under section 410 of this act and board of directors meetings under section 615 of this act;

(j) Allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by sections 411 through 417 of this act;

(k) Authorize investor members and expand or restrict the transferability of members' interests to the extent provided in sections 502 and 503 of this act;

(l) Provide for enforcement of a marketing contract;

(m) Provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with sections 603 through 605, 607, 609, and 610 of this act;

(n) Restrict the manner of conducting board meetings and taking action without a meeting under sections 611 and 612 of this act;

(o) Provide for frequency, location, notice, and waivers of notice for board meetings under sections 613 and 614 of this act;

(p) Increase the percentage of votes necessary for board action under section 616(2) of this act;

(q) Provide for the creation of committees of the board of directors and matters related to the committees in accordance with section 617 of this act;

(r) Provide for officers and their appointment, designation, and authority under section 622 of this act;

(s) Provide for forms and values of contributions under section 802 of this act;

(t) Provide for remedies for failure to make a contribution;

(u) Provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with sections 803 through 806 of this act;

(v) Specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under section 901 (2) and (3) of this act;

(w) Provide the personal representative or other legal representative of a deceased member or a member adjudged incompetent with additional rights under section 903 of this act;

(x) Increase the percentage of votes required for board of director approval of:

(i) A resolution to dissolve under section 1005(1)(a) of this act;

(ii) A proposed amendment to the organic rules under section 302(1)(a) of this act;

(iii) A proposed disposition of assets under section 1203(1) of this act; and

(iv) A plan of merger or plan of conversion under sections 1301 through 1320 of this act; and

(y) Vary the percentage of votes required for members approval of:

(i) A resolution to dissolve under section 1005 of this act;

(ii) An amendment to the organic rules under section 305 of this act;

(iii) A disposition of assets under section 1204 of this act; and

(iv) A plan of merger or plan of conversion under sections 1301 through 1320 of this act.

(4) The organic rules must address members' contributions pursuant to section 801 of this act.

**NEW SECTION. Sec. 110. REQUIRED INFORMATION.** (1) Subject to subsection (2) of this section, a limited cooperative association shall maintain in a record available at its principal office:

(a) A list containing the name, last known street address and, if different, mailing address, and term of office of each director and officer;

(b) The initial articles of organization and all amendments to and restatements of the articles, together with an executed copy of any power of attorney under which any article, amendment, or restatement has been executed;



(c) The initial bylaws and all amendments to and restatements of the bylaws;

(d) All filed articles of merger and conversion;

(e) All financial statements of the association for the three most recent years;

(f) The most recent annual report delivered by the association to the secretary of state;

(g) The minutes of members meetings for the period of the association's existence;

(h) Evidence of all actions taken by members without a meeting for the period of the association's existence;

(i) A list containing:

(i) The name, in alphabetical order, and last known street address and, if different, mailing address of each patron member and each investor member; and

(ii) If the association has districts or classes of members, information from which each current member in a district or class may be identified;

(j) The federal income tax returns, any state and local income tax returns, and any tax reports of the association for the three most recent years;

(k) Accounting records maintained by the association in the ordinary course of its operations for the three most recent years;

(l) The minutes of directors meetings for the period of the association's existence;

(m) Evidence of all actions taken by directors without a meeting for the period of the association's existence;

(n) The amount of money contributed and agreed to be contributed by each member;

(o) A description and statement of the agreed value of contributions or benefits other than money made or provided and agreed to be made or provided by each member;

(p) The times at which, or events on the happening of which, any additional contribution is to be made by each member;

(q) For each member, a description and statement of the member's interest or information from which the description and statement can be derived; and

(r) All communications concerning the association made in a record to all members, or to all members in a district or class, for the three most recent years.

(2) If a limited cooperative association has existed for less than the period for which records must be maintained under subsection (1) of this section, the period records must be kept is the period of the association's existence.

(3) The organic rules may require that more information be maintained.

**NEW SECTION. Sec. 111.** BUSINESS TRANSACTIONS OF MEMBER WITH LIMITED COOPERATIVE ASSOCIATION. Subject to sections 618 and 619 of this act and except as otherwise provided in the organic rules or a specific contract relating to a transaction, a member may lend money to and transact other business with a limited cooperative association in the same manner as a person that is not a member.

**NEW SECTION. Sec. 112.** DUAL CAPACITY. A person may have a patron member's interest and an investor member's interest. When such person

acts as a patron member, the person is subject to this chapter and the organic rules governing patron members. When such person acts as an investor member, the person is subject to this chapter and the organic rules governing investor members.

**NEW SECTION. Sec. 113.** USE OF THE TERM "COOPERATIVE" IN NAME. Use of the term "cooperative" or its abbreviation under this chapter is not a violation of the provisions restricting the use of the term under RCW 23.86.030.

**NEW SECTION. Sec. 114.** SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered in whole or in part outside this chapter:

- (1) Delivery of record: RCW 23.95.110.
- (2) Filing with secretary of state: RCW 23.95.200 through 23.95.265.
- (3) Name of entity: RCW 23.95.300 through 23.95.315.
- (4) Registered agent of entity: RCW 23.95.400 through 23.95.460.
- (5) Foreign entities: RCW 23.95.500 through 23.95.555.
- (6) Administrative dissolution: RCW 23.95.600 through 23.95.625.
- (7) Miscellaneous provisions, including supplemental principles of law and reservation of power to amend or repeal: RCW 23.95.700 through 23.95.715.

## PART 2

### ORGANIZATION OF LIMITED COOPERATIVE ASSOCIATION

**NEW SECTION. Sec. 201.** FORMATION OF LIMITED COOPERATIVE ASSOCIATION—ARTICLES OF ORGANIZATION. (1) One or more persons may act as organizers to form a limited cooperative association by delivering to the secretary of state for filing articles of organization.

- (2) The articles of organization must state:
  - (a) The name of the limited cooperative association, which must comply with RCW 23.95.300 and 23.95.305(5);
  - (b) The purposes for which the association is formed;
  - (c) The street and mailing addresses in this state of the initial registered agent;
  - (d) The street and mailing addresses of the initial principal office;
  - (e) The name and street and mailing addresses of each organizer; and
  - (f) The term for which the association is to exist if other than perpetual.
- (3) Subject to section 109 of this act, articles of organization may contain any other provisions in addition to those required by subsection (1) of this section.

(4) A limited cooperative association is formed after articles of organization that substantially comply with subsection (1) of this section are delivered to the secretary of state, are filed, and become effective under RCW 23.95.210.

**NEW SECTION. Sec. 202.** ORGANIZATION OF LIMITED COOPERATIVE ASSOCIATION. (1) After a limited cooperative association is formed:

- (a) If initial directors are named in the articles of organization, the initial directors shall hold an organizational meeting to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association; or

(b) If initial directors are not named in the articles of organization, the organizers shall designate the initial directors and call a meeting of the initial directors to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association.

(2) Unless the articles of organization otherwise provide, the initial directors may cause the limited cooperative association to accept members, including those necessary for the association to begin business.

(3) Initial directors need not be members.

(4) An initial director serves until a successor is elected and qualified at a members meeting or the director is removed, resigns, is adjudged incompetent, or dies.

**NEW SECTION. Sec. 203. BYLAWS.** (1) Bylaws must be in a record and, if not stated in the articles of organization, must include:

(a) A statement of the capital structure of the limited cooperative association, including:

(i) The classes or other types of members' interests and relative rights, preferences, and restrictions granted to or imposed upon each class or other type of member's interest; and

(ii) The rights to share in profits or distributions of the association;

(b) A statement of the method for admission of members;

(c) A statement designating voting and other governance rights, including which members have voting power and any restriction on voting power;

(d) A statement that a member's interest is transferable if it is to be transferable and a statement of the conditions upon which it may be transferred;

(e) A statement concerning the manner in which profits and losses are allocated and distributions are made among patron members and, if investor members are authorized, the manner in which profits and losses are allocated and how distributions are made among investor members and between patron members and investor members;

(f) A statement concerning:

(i) Whether persons that are not members but conduct business with the association may be permitted to share in allocations of profits and losses and receive distributions; and

(ii) The manner in which profits and losses are allocated and distributions are made with respect to those persons; and

(g) A statement of the number and terms of directors or the method by which the number and terms are determined.

(2) Subject to section 109(3) of this act and the articles of organization, bylaws may contain any other provision for managing and regulating the affairs of the association.

(3) In addition to amendments permitted under sections 301 through 307 of this act, the initial board of directors may amend the bylaws by a majority vote of the directors at any time before the admission of members.

**NEW SECTION. Sec. 204. EXECUTING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY OF STATE.** A record delivered to the secretary of state for filing pursuant to chapter 23.95 RCW and this chapter must be executed as follows:

(1) A limited cooperative association's initial articles of organization must be executed by at least one person acting as an organizer.

(2) A statement of withdrawal under RCW 23.95.215 must be executed as provided in that section.

(3) Except as otherwise provided in subsection (4) of this section, a record executed by an existing association must be executed by an officer.

(4) A record filed on behalf of a dissolved association must be executed by a person winding up activities under section 1006(2) of this act or a person appointed under section 1006(3) of this act to wind up those activities.

(5) Any other record delivered on behalf of a person to the secretary of state for filing must be executed by that person.

### PART 3

## AMENDMENT OF ORGANIC RULES OF LIMITED COOPERATIVE ASSOCIATION

NEW SECTION. **Sec. 301.** **AUTHORITY TO AMEND ORGANIC RULES.** (1) A limited cooperative association may amend its organic rules under this chapter for any lawful purpose. In addition, the initial board of directors may amend the bylaws of an association under section 203 of this act.

(2) Unless the organic rules otherwise provide, a member does not have a vested property right resulting from any provision in the organic rules, including a provision relating to the management, control, capital structure, distribution, entitlement, purpose, or duration of the limited cooperative association.

NEW SECTION. **Sec. 302.** **NOTICE AND ACTION ON AMENDMENT OF ORGANIC RULES.** (1) Except as provided in sections 301(1) and 305(6) of this act, the organic rules of a limited cooperative association may be amended only at a members meeting. An amendment may be proposed by either:

(a) A majority of the board of directors, or a greater percentage if required by the organic rules; or

(b) One or more petitions executed by at least ten percent of the patron members or at least ten percent of the investor members.

(2)(a) The board of directors shall call a members meeting to consider an amendment proposed pursuant to subsection (1) of this section.

(b) Subject to sections 408 and 419 of this act, not later than thirty days following the proposal of the amendment by the board or receipt of a petition, the board must mail or otherwise transmit or deliver in a record to each member:

(i) The proposed amendment, or a summary of the proposed amendment and a statement of the manner in which a copy of the amendment in a record may be reasonably obtained by a member;

(ii) A recommendation that the members approve the amendment, or if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis for that determination;

(iii) A statement of any condition of the board's submission of the amendment to the members; and

(iv) Notice of the meeting at which the proposed amendment will be considered, which must be given in the same manner as notice for a special meeting of members.

(c) The meeting must be held at least ten and not more than one hundred twenty days after providing the notice required by (b) of this subsection.

**NEW SECTION. Sec. 303. METHOD OF VOTING ON AMENDMENT OF ORGANIC RULES.** (1) A substantive change to a proposed amendment of the organic rules may not be made at the members meeting at which a vote on the amendment occurs.

(2) A nonsubstantive change to a proposed amendment of the organic rules may be made at the members meeting at which the vote on the amendment occurs and need not be separately voted upon by the board of directors.

(3) A vote to adopt a nonsubstantive change to a proposed amendment to the organic rules must be by the same percentage of votes required to pass a proposed amendment.

**NEW SECTION. Sec. 304. VOTING BY DISTRICT, CLASS, OR VOTING GROUP.** (1) This section applies if the organic rules provide for voting by district or class, or if there is one or more identifiable voting groups that a proposed amendment to the organic rules would affect differently from other members with respect to matters identified in section 305(5) (a) through (e) of this act. Approval of the amendment requires the same percentage of votes of the members of that district, class, or voting group required in sections 305 and 414 of this act.

(2) If a proposed amendment to the organic rules would affect members in two or more districts or classes entitled to vote separately under subsection (1) of this section in the same or a substantially similar way, the districts or classes affected must vote as a single voting group unless the organic rules otherwise provide for separate voting.

**NEW SECTION. Sec. 305. APPROVAL OF AMENDMENT.** (1) Subject to section 304 of this act and subsections (3) and (4) of this section, an amendment to the articles of organization must be approved by:

(a) At least two-thirds of the voting power of members present at a members meeting called under section 302 of this act; and

(b) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(2) Subject to section 304 of this act and subsections (3) through (6) of this section, an amendment to the bylaws must be approved by:

(a) At least a majority vote of the voting power of all members present at a members meeting called under section 302 of this act, unless the organic rules require a greater percentage; and

(b) If a limited cooperative association has investor members, a majority of the votes cast by patron members, unless the organic rules require a larger affirmative vote by patron members.

(3) The organic rules may require that the percentage of votes under subsection (1)(a) or (2)(a) of this section be:

(a) A different percentage that is not less than a majority of members voting at the meeting;

(b) Measured against the voting power of all members; or

(c) A combination of (a) and (b) of this subsection.

(4) Consent in a record by a member must be delivered to a limited cooperative association before delivery of an amendment to the articles of organization or restated articles of organization for filing pursuant to section 307 of this act, if as a result of the amendment the member will have:

- (a) Personal liability for an obligation of the association; or
- (b) An obligation or liability for an additional contribution.

(5) The vote required to amend bylaws must satisfy the requirements of subsection (1) of this section if the proposed amendment modifies:

(a) The equity capital structure of the limited cooperative association, including the rights of the association's members to share in profits or distributions, or the relative rights, preferences, and restrictions granted to or imposed upon one or more districts, classes, or voting groups of similarly situated members;

(b) The transferability of a member's interest;

(c) The manner or method of allocation of profits or losses among members;

(d) The quorum for a meeting and the rights of voting and governance; or

(e) Unless otherwise provided in the organic rules, the terms for admission of new members.

(6) Except for the matters described in subsection (5) of this section, the articles of organization may delegate amendment of all or a part of the bylaws to the board of directors without requiring member approval.

(7) If the articles of organization delegate amendment of bylaws to the board of directors, the board shall provide a description of any amendment of the bylaws made by the board to the members in a record not later than thirty days after the amendment, but the description may be provided at the next annual members meeting if the meeting is held within the thirty-day period.

**NEW SECTION. Sec. 306.** RESTATED ARTICLES OF ORGANIZATION. A limited cooperative association, by the affirmative vote of a majority of the board of directors taken at a meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles of organization that contain the original articles as previously amended. Restated articles may contain amendments if the restated articles are adopted in the same manner and with the same vote as required for amendments to the articles under section 305(1) of this act. Upon filing, restated articles supersede the existing articles and all amendments.

**NEW SECTION. Sec. 307.** AMENDMENT OR RESTATEMENT OF ARTICLES OF ORGANIZATION—FILING. (1) To amend its articles of organization, a limited cooperative association must deliver to the secretary of state for filing an amendment of the articles, or restated articles of organization, which contain one or more amendments of the articles of organization, stating:

(a) The name of the association;

(b) The date of filing of the association's initial articles; and

(c) The text of the amendment.

(2) Before the beginning of the initial meeting of the board of directors, an organizer who knows that information in the filed articles of organization was inaccurate when the articles were filed or has become inaccurate due to changed circumstances shall promptly:

(a) Cause the articles to be amended; or

(b) If appropriate, deliver an amendment to the secretary of state for filing pursuant to RCW 23.95.110(2).

(3) To restate its articles of organization, a limited cooperative association must deliver to the secretary of state for filing a restatement designated as such in its heading.

(4) Upon filing, an amendment of the articles of organization or other record containing an amendment of the articles which has been properly adopted by the members is effective as provided in RCW 23.95.210.

#### **PART 4 MEMBERS**

**NEW SECTION. Sec. 401.** MEMBERS. To begin business, a limited cooperative association must have at least two patron members unless the sole member is a cooperative.

**NEW SECTION. Sec. 402.** BECOMING A MEMBER. After formation of a limited cooperative association, a person becomes a member:

- (1) As provided in the organic rules;
- (2) As the result of a conversion or merger effective under sections 1301 through 1320 of this act; or
- (3) With the affirmative vote or consent of all the members.

**NEW SECTION. Sec. 403.** NO AGENCY POWER OF MEMBER AS MEMBER. (1) A member is not an agent of a limited cooperative association solely by reason of being a member.

(2) A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited cooperative association because of the person's conduct.

**NEW SECTION. Sec. 404.** LIABILITY OF MEMBERS AND DIRECTORS. (1) Unless the articles of organization provide otherwise, a debt, obligation, or other liability of a limited cooperative association is solely the debt, obligation, or other liability of the association. A member or director is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the association solely by reason of being or acting as a member or director of the association. This subsection applies regardless of the dissolution of the association.

(2) The failure of a limited cooperative association to observe formalities relating to the exercise of its powers or management of its activities and affairs is not grounds for imposing liability on any member or director for a debt, obligation, or other liability of the association.

**NEW SECTION. Sec. 405.** RIGHT OF MEMBERS AND DISSOCIATED MEMBERS TO INFORMATION. (1) On at least ten business days' demand made in a record received by a limited cooperative association, a member may inspect and copy during regular business hours, at the principal office or a reasonable location specified by the limited cooperative association, required information listed in sections 110(1) (a) through (h) of this act. A member need not have any particular purpose for seeking the information. The association is not required to provide the same information listed in section 110(1) (a) through (h) of this act to the same member more than once during a six-month period.

(2) Subject to subsection (3) of this section, on at least ten business days' demand made in a record received by a limited cooperative association, a member may inspect and copy during regular business hours, at the principal office or a reasonable location specified by the limited cooperative association, required information listed in section 110(1) (i), (j), (l), (m), (p), and (r) of this act, if:

(a) The member seeks the information in good faith and for a proper purpose reasonably related to the member's interest;

(b) The demand includes a description with reasonable particularity of the information sought and the purpose for seeking the information;

(c) The information sought is directly connected to the member's purpose; and

(d) The demand is reasonable.

(3) Not later than ten business days after receipt of a demand pursuant to subsection (2) of this section, a limited cooperative association shall provide, in a record, the following information to the member that made the demand:

(a) If the association agrees to provide the demanded information:

(i) What information the association will provide in response to the demand; and

(ii) A reasonable time and place at which the association will provide the information; or

(b) If the association declines to provide some or all of the demanded information, the association's reasons for declining.

(4) On at least ten business days' demand made in a record received by a limited cooperative association, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (2) of this section. The association shall respond to a demand made pursuant to this subsection in the manner provided in subsection (3) of this section.

(5) Not later than ten business days after receipt by a limited cooperative association of a demand made by a member in a record, but not more often than once in a six-month period, the association shall deliver to the member a record stating the information with respect to the member required by section 110(1)(q) of this act.

(6) In addition to any restriction or condition stated in its organic rules, a limited cooperative association, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the association has the burden of proving reasonableness.

(7) A limited cooperative association may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(8) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal



representative. Any restriction or condition imposed by the organic rules or under subsection (7) of this section applies both to the agent or legal representative and the member or dissociated member.

(9) The rights stated in this section do not extend to a person as transferee.

(10) The organic rules may require a limited cooperative association to provide more information than required by this section and may establish conditions and procedures for providing the information.

**NEW SECTION. Sec. 406. ANNUAL MEETING OF MEMBERS.** (1) Members shall meet annually at a time provided in the organic rules or set by the board of directors not inconsistent with the organic rules.

(2) An annual members meeting may be held inside or outside this state at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(3)(a) Unless the organic rules otherwise provide:

(i) If the board of directors or another person is authorized in the bylaws to determine the place of annual meetings, the board of directors or such other person may, in the sole discretion of the board of directors or such other person, determine that an annual meeting will not involve a physical assembly of members at a particular geographic location, but instead will be held solely by means of remote communication, in accordance with (b) of this subsection.

(ii) An association may permit any or all members to participate in an annual members meeting by means of, or conduct the meeting solely through the use of, remote communication. Subject to the provisions of (b) of this subsection, participation by remote communication is to be subject to any guidelines and procedures adopted by or pursuant to the authority of the board of directors.

(b) If an association elects to permit participation by means of, or conduct a meeting solely through the use of, remote communication:

(i) The notice of the meeting must specify how a member may participate in the meeting by means of remote communication.

(ii) The association must implement reasonable measures to (A) verify that each person participating remotely as a member is a member, and (B) provide each person participating remotely as a member a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with those proceedings.

(iii) Participation in a meeting in accordance with this section constitutes presence in person at that meeting.

(iv) If the board of directors or another authorized person determines to hold an annual members meeting without a physical assembly of members in accordance with this subsection (3), all members entitled to vote at such meeting must have the opportunity to participate in the meeting by remote communication in accordance with this subsection (3).

(4) The board of directors shall report, or cause to be reported, at the association's annual members meeting the association's business and financial condition as of the close of the most recent fiscal year.

(5) Unless the organic rules otherwise provide, the board of directors shall designate the presiding officer of the association's annual members meeting.

(6) Failure to hold an annual members meeting does not affect the validity of any action by the limited cooperative association.

**NEW SECTION. Sec. 407. SPECIAL MEETING OF MEMBERS.** (1) A special meeting of members may be called only:

(a) As provided in the organic rules;

(b) By a majority vote of the board of directors on a proposal stating the purpose of the meeting;

(c) By demand in a record executed by members holding at least twenty percent of the voting power of the persons in any district or class entitled to vote on the matter that is the purpose of the meeting stated in the demand; or

(d) By demand in a record executed by members holding at least ten percent of the total voting power of all the persons entitled to vote on the matter that is the purpose of the meeting stated in the demand.

(2) A demand under subsection (1)(c) or (d) of this section must be submitted to the officer of the limited cooperative association charged with keeping its records.

(3) Any voting member may withdraw its demand under subsection (1)(c) or (d) of this section before receipt by the limited cooperative association of demands sufficient to require a special meeting of members.

(4) A special meeting of members may be held inside or outside this state at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(5) Unless the organic rules otherwise provide, the provisions of section 406(3) of this act apply to special meetings of members as though the special meeting of members were an annual meeting of members.

(6) Only business within the purpose or purposes stated in the notice of a special meeting of members may be conducted at the meeting.

(7) Unless the organic rules otherwise provide, the presiding officer of a special meeting of members shall be designated by the board of directors.

**NEW SECTION. Sec. 408. NOTICE OF MEMBERS MEETING.** (1) A limited cooperative association shall notify each member of the time, date, and place of a members meeting at least ten and not more than one hundred twenty days before the meeting.

(2) Unless the articles of organization otherwise provide, notice of an annual members meeting need not include any purpose of the meeting.

(3) Notice of a special meeting of members must include each purpose of the meeting as contained in the demand under section 407(1) (c) or (d) of this act or as voted upon by the board of directors under section 407(1)(b) of this act.

(4) Notice of a members meeting must be given in a record unless oral notice is reasonable under the circumstances.

**NEW SECTION. Sec. 409. WAIVER OF MEMBERS MEETING NOTICE.** (1) A member may waive notice of a members meeting before, during, or after the meeting.

(2) A member's participation in a members meeting is a waiver of notice of that meeting unless the member objects to the meeting at the beginning of the meeting or promptly upon the member's arrival at the meeting and does not thereafter vote for or assent to action taken at the meeting.

**NEW SECTION. Sec. 410.** QUORUM OF MEMBERS. Unless the organic rules otherwise require a greater number of members or percentage of the voting power, the voting member or members present at a members meeting constitute a quorum.

**NEW SECTION. Sec. 411.** VOTING BY PATRON MEMBERS. Except as provided by section 412(1) of this act, each patron member has one vote. The organic rules may allocate voting power among patron members as provided in section 412(1) of this act.

**NEW SECTION. Sec. 412.** ALLOCATION OF VOTING POWER OF PATRON MEMBER. (1) The organic rules may allocate voting power among patron members on the basis of one or a combination of the following:

- (a) One member, one vote;
- (b) Use or patronage; or
- (c) If a patron member is a cooperative, the number of its patron members.

(2) The organic rules may provide for the allocation of patron member voting power by districts or class, or any combination thereof.

**NEW SECTION. Sec. 413.** VOTING BY INVESTOR MEMBERS. If the organic rules provide for investor members, each investor member has one vote, unless the organic rules otherwise provide. The organic rules may provide for the allocation of investor member voting power by class, classes, or any combination of classes.

**NEW SECTION. Sec. 414.** VOTING REQUIREMENTS FOR MEMBERS. If a limited cooperative association has both patron and investor members, the following rules apply:

(1) The total voting power of all patron members may not be less than a majority of the entire voting power entitled to vote.

(2) Action on any matter is approved only upon the affirmative vote of at least a majority of:

(a) All members voting at the meeting unless more than a majority is required by sections 307, 1001 through 1013, or 1201 through 1204 of this act or the organic rules; and

(b) Votes cast by patron members unless the organic rules require a larger affirmative vote by patron members.

(3) The organic rules may provide for the percentage of the affirmative votes that must be cast by investor members to approve the matter.

**NEW SECTION. Sec. 415.** MANNER OF VOTING. (1) Unless the organic rules otherwise provide, voting by a proxy at a members meeting is prohibited. This subsection does not prohibit delegate voting based on district or class.

(2) If voting by a proxy is permitted, a patron member may appoint only another patron member as a proxy and, if investor members are permitted, an investor member may appoint only another investor member as a proxy.

(3) The organic rules may provide for the manner of and provisions governing the appointment of a proxy.

(4) The organic rules may provide for voting on any question by ballot delivered by mail or voting by other means on questions that are subject to vote by members.

**NEW SECTION. Sec. 416. ACTION WITHOUT A MEETING.** (1) Unless the organic rules require that action be taken only at a members meeting, any action that may be taken by the members may be taken without a meeting if the action is approved by members entitled to vote on the action in the aggregate not less than the minimum number of votes that would be necessary to approve that action at a meeting of which all members entitled to vote on the action were present and voted. Action may be approved by members without a meeting or a vote by means of execution of a single consent or multiple consents in a record to the action.

(2) Consent under subsection (1) of this section may be withdrawn by a member in a record at any time before the limited cooperative association receives a consent from each member entitled to vote.

(3) Consent to any action may specify the effective date or time of the action.

**NEW SECTION. Sec. 417. DISTRICTS AND DELEGATES—CLASSES OF MEMBERS.** (1) The organic rules may provide for the formation of geographic districts of patron members and:

(a) For the conduct of patron member meetings by districts and the election of directors at the meetings; or

(b) That districts may elect district delegates to represent and vote for the district at members meetings.

(2) A delegate elected under subsection (1)(b) of this section has one vote unless voting power is otherwise allocated by the organic rules.

(3) The organic rules may provide for the establishment of classes of members, for the preferences, rights, and limitations of the classes, and:

(a) For the conduct of members meetings by classes and the election of directors at the meetings; or

(b) That classes may elect class delegates to represent and vote for the class in members meetings.

(4) A delegate elected under subsection (3)(b) of this section has one vote unless voting power is otherwise allocated by the organic rules.

**NEW SECTION. Sec. 418. APPROVAL OF TRANSACTION UNDER PART 13.** (1) For a limited cooperative association to approve a plan for a transaction under sections 1301 through 1320 of this act, the plan must be approved by a majority of the board of directors, or a greater vote if required by the organic rules, and the board shall call a members meeting to consider the plan, hold the meeting not later than ninety days after approval of the plan by the board, and, subject to section 419 of this act, mail or otherwise transmit or deliver in a record to each member:

(a) The plan, or a summary of the plan and a statement of the manner in which a copy of the plan in a record reasonably may be obtained by a member;

(b) A recommendation that the members approve the plan, or if the board determines that because of a conflict of interest or other circumstances it should not make a favorable recommendation, the basis for that determination;

(c) A statement of any condition of the board's submission of the plan to the members; and

(d) Notice of the meeting at which the plan will be considered, which must be given in the same manner as notice of a special meeting of members.

(2) Subject to subsections (3) and (4) of this section, a plan must be approved by:

(a) At least two-thirds of the voting power of members present at a members meeting called under subsection (1) of this section; and

(b) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(3) The organic rules may provide that the required vote under subsection (2)(a) of this section be:

(a) A different fraction that is not less than a majority of members voting at the meeting;

(b) Measured against the voting power of all members; or

(c) A combination of (a) and (b) of this subsection.

(4) The vote required under subsections (2) and (3) of this section to approve a plan may not be less than the vote required for the members of the limited cooperative association to amend the articles of organization.

(5) A member's consent in a record to a plan must be delivered to the limited cooperative association before delivery to the secretary of state for filing of articles of merger or conversion if, as a result of the merger or conversion, the member will have interest holder liability for debts, obligations, or other liabilities that are incurred after the transaction becomes effective.

(6) The voting requirements for districts, classes, or voting groups under section 304 of this act apply to approval of a transaction under sections 1301 through 1320 of this act.

**NEW SECTION. Sec. 419.** NOTICE TO MEMBERS OF CONSUMER COOPERATIVE. (1) A consumer cooperative organized under this chapter may satisfy any provisions of this chapter requiring that certain information or materials must be set forth in a writing accompanying or contained in the notice of a meeting of its members, by:

(a) Posting the information or materials on an electronic network not less than thirty days prior to the meeting at which such information or materials will be considered by members; and

(b) Delivering to those members who are eligible to vote a notification, either in a meeting notice authorized under this chapter or in such other reasonable form as the board of directors may specify, setting forth the address of the electronic network at which and the date after which such information or materials will be posted and available for viewing by members eligible to vote, together with comprehensible instructions regarding how to obtain access to the information and materials posted on the electronic network.

(2) A consumer cooperative that elects to post information or materials required by this chapter on an electronic network shall, at its expense, provide a copy of such information or materials in a written or other tangible medium to any member who is eligible to vote and so requests.

## PART 5

### MEMBER'S INTEREST IN LIMITED COOPERATIVE ASSOCIATION

**NEW SECTION. Sec. 501.** MEMBER'S INTEREST. A member's interest:

(1) Is personal property;

(2) Consists of:

- (a) Governance rights;
  - (b) Financial rights; and
  - (c) The right or obligation, if any, to do business with the limited cooperative association; and
- (3) May be in certificated or uncertificated form.

**NEW SECTION. Sec. 502. PATRON AND INVESTOR MEMBERS' INTERESTS.** (1) Unless the organic rules establish investor members' interests, a member's interest is a patron member's interest.

(2) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, while a person is a member of the association, the person:

- (a) If admitted as a patron member, remains a patron member;
- (b) If admitted as an investor member, remains an investor member; and
- (c) If admitted as a patron member and investor member remains a patron and investor member if not dissociated in one of the capacities.

**NEW SECTION. Sec. 503. TRANSFERABILITY OF MEMBER'S INTEREST.** (1) The provisions of this chapter relating to the transferability of a member's interest are subject to Title 62A RCW.

(2) Unless the organic rules otherwise provide, a member's interest other than financial rights is not transferable.

(3) Unless a transfer is restricted or prohibited by the organic rules, a member may transfer its financial rights in the limited cooperative association.

(4) The terms of any restriction on transferability of financial rights must be:

(a) Set forth in the organic rules and the member records of the association; and

(b) Conspicuously noted on any certificates evidencing a member's interest.

(5) A transferee of a member's financial rights, to the extent the rights are transferred, has the right to share in the allocation of profits or losses and to receive the distributions to the member transferring the interest to the same extent as the transferring member.

(6) A transferee of a member's financial rights does not become a member upon transfer of the rights unless the transferee is admitted as a member by the limited cooperative association.

(7) A limited cooperative association need not give effect to a transfer under this section until the association has notice of the transfer.

(8) A transfer of a member's financial rights in violation of a restriction on transfer contained in the organic rules is ineffective if the intended transferee has notice of the restriction at the time of transfer.

## PART 6 DIRECTORS AND OFFICERS

**NEW SECTION. Sec. 601. BOARD OF DIRECTORS.** (1) A limited cooperative association must have a board of directors of at least three individuals, unless the association has fewer than three members. If the association has fewer than three members, the number of directors may not be fewer than the number of members.

(2) The affairs of a limited cooperative association must be managed by, or under the direction of, the board of directors. The board may adopt policies and procedures that do not conflict with the organic rules or this chapter.

(3) An individual is not an agent for a limited cooperative association solely by being a director.

**NEW SECTION. Sec. 602.** NO LIABILITY AS DIRECTOR FOR LIMITED COOPERATIVE ASSOCIATION'S OBLIGATIONS. A debt, obligation, or other liability of a limited cooperative association is solely that of the association and is not a debt, obligation, or other liability of a director solely by reason of being a director. An individual is not personally liable, directly or indirectly, for an obligation of an association solely by reason of being a director.

**NEW SECTION. Sec. 603.** QUALIFICATIONS OF DIRECTORS. (1) Unless the organic rules otherwise provide, and subject to subsection (3) of this section, each director of a limited cooperative association must be an individual who is a member of the association or an individual who is designated by a member that is not an individual for purposes of qualifying and serving as a director. Initial directors need not be members.

(2) Unless the organic rules otherwise provide, a director may be an officer or employee of the limited cooperative association.

(3) If the organic rules provide for nonmember directors, at least two-thirds of the directors must be members.

(4) The organic rules may provide qualifications for directors in addition to those in this section.

**NEW SECTION. Sec. 604.** ELECTION OF DIRECTORS AND COMPOSITION OF BOARD. (1) Unless the organic rules require a greater number:

(a) At least one-third of the directors must be patron members; and

(b) A majority of the board of directors must be elected exclusively by patron members.

(2) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, the directors who are not elected exclusively by patron members are elected by the investor members.

(3) Subject to subsection (1) of this section, the organic rules may provide for the election of all or a specified number of directors by one or more districts or classes of members.

(4) Subject to subsection (1) of this section, the organic rules may provide for the nomination or election of directors by districts or classes, directly or by district delegates.

(5) If a class of members consists of a single member, the organic rules may provide for the member to appoint a director or directors.

(6) Unless the organic rules otherwise provide, cumulative voting for directors is prohibited.

(7) Except as otherwise provided by the organic rules, subsection (5) of this section, or sections 202, 416, 417, and 609 of this act, member directors must be elected at an annual members meeting.

**NEW SECTION. Sec. 605.** TERM OF DIRECTOR. (1) Unless the organic rules otherwise provide, and subject to subsections (3) and (4) of this section and section 202(4) of this act, the term of a director expires at the annual members meeting following the director's election or appointment. The term of a director may not exceed three years.

(2) Unless the organic rules otherwise provide, a director may be reelected.

(3) Except as otherwise provided in subsection (4) of this section, a director continues to serve until a successor director is elected or appointed and qualifies or the director is removed, resigns, is adjudged incompetent, or dies.

(4) Unless the organic rules otherwise provide, a director does not serve the remainder of the director's term if the director ceases to qualify to be a director.

**NEW SECTION. Sec. 606. RESIGNATION OF DIRECTOR.** A director may resign at any time by giving notice in a record to the limited cooperative association. Unless the notice states a later effective date, a resignation is effective when the notice is received by the association.

**NEW SECTION. Sec. 607. REMOVAL OF DIRECTOR.** Unless the organic rules otherwise provide, the following rules apply:

(1) Members may remove a director with or without cause.

(2) A member or members holding at least ten percent of the total voting power entitled to be voted in the election of a director may demand removal of the director by one or more executed petitions submitted to the officer of the limited cooperative association charged with keeping its records.

(3) Upon receipt of a petition for removal of a director, an officer of the association or the board of directors shall:

(a) Not later than thirty days following receipt of the petition by the association, mail or otherwise transmit or deliver in a record to the members entitled to vote on the removal, and to the director to be removed, notice of the meeting which complies with section 408 of this act; and

(b) Call a special meeting of members to be held at least ten and not more than one hundred twenty days after providing the notice required by (a) of this subsection.

(4) A director is removed if the votes in favor of removal are equal to or greater than the votes required to elect the director.

**NEW SECTION. Sec. 608. SUSPENSION OF DIRECTOR BY BOARD.**

(1) A board of directors may suspend a director if, considering the director's course of conduct and the inadequacy of other available remedies, immediate suspension is necessary for the best interests of the association and the director is engaging, or has engaged, in:

(a) Fraudulent conduct with respect to the association or its members;

(b) Abuse of the position of director;

(c) Intentional or reckless infliction of harm on the association;

(d) Failure to substantially perform the duties of a director;

(e) Actions not in the best interests of the association;

(f) Behavior that is disruptive to the proceedings of the board of directors; or

(g) Any other behavior, act, or omission as provided by the organic rules.

(2) A suspension under this section is effective until the next meeting of members at which directors are elected.

(3) A director suspended under this section is, during the period of suspension, treated as though not a director.

(4) A suspension under this section requires concurrence of two-thirds of the full membership of the board of directors, excluding the director who is the subject of the vote to suspend.



**NEW SECTION. Sec. 609.** VACANCY ON BOARD. (1) Unless the organic rules otherwise provide, a vacancy on the board of directors must be filled within a reasonable time by majority vote of the remaining directors.

(2) Unless the organic rules otherwise provide, if a vacating director was elected or appointed by a class of members or a district:

(a) The new director must be of that class or district; and

(b) The selection of the director for the unexpired term must be conducted in the same manner as would the selection for that position without a vacancy.

(3) If a member appointed a vacating director, the organic rules may provide for that member to appoint a director to fill the vacancy.

**NEW SECTION. Sec. 610.** REMUNERATION OF DIRECTORS. Unless the organic rules otherwise provide, the board of directors may set the remuneration of directors and of nondirector committee members appointed under section 617(1) of this act.

**NEW SECTION. Sec. 611.** MEETINGS. (1) A board of directors shall meet at least annually and may hold meetings inside or outside this state.

(2) Unless the organic rules otherwise provide, a board of directors may permit directors to attend or conduct board meetings through the use of any means of communication, if all directors attending the meeting can communicate with each other during the meeting.

**NEW SECTION. Sec. 612.** ACTION WITHOUT MEETING. (1) Unless prohibited by the organic rules, any action that may be taken by a board of directors may be taken without a meeting if each director consents in a record to the action.

(2) Consent under subsection (1) of this section may be withdrawn by a director in a record at any time before the limited cooperative association receives consent from all directors.

(3) A record of consent for any action under subsection (1) of this section may specify the effective date or time of the action.

**NEW SECTION. Sec. 613.** MEETINGS AND NOTICE. (1) Unless the organic rules otherwise provide, a board of directors may establish a time, date, and place for regular board meetings, and notice of the time, date, place, or purpose of those meetings is not required.

(2) Unless the organic rules otherwise provide, notice of the time, date, and place of a special meeting of a board of directors must be given to all directors at least two days before the meeting.

(3) The organic rules may require that the notice under subsection (2) of this section contain a statement of the purpose of the meeting, and may additionally require that the meeting be limited to the matters contained in the statement.

**NEW SECTION. Sec. 614.** WAIVER OF NOTICE OF MEETING. (1) Unless the organic rules otherwise provide, a director may waive any required notice of a meeting of the board of directors in a record before, during, or after the meeting.

(2) Unless the organic rules otherwise provide, a director's participation in a meeting is a waiver of notice of that meeting unless the director objects to the meeting at the beginning of the meeting or promptly upon the director's arrival at the meeting and does not thereafter vote in favor of or otherwise assent to the action taken at the meeting.

**NEW SECTION. Sec. 615. QUORUM.** (1) Unless the articles of organization provide for a different number, a majority of the total number of directors specified by the organic rules constitutes a quorum for a meeting of the directors. The articles of organization may not provide for a quorum that is less than one-third of the total number of directors specified by the organic rules.

(2) If a quorum of the board of directors is present at the beginning of a meeting, any action taken by the directors present is valid even if withdrawal of directors originally present results in the number of directors being fewer than the number required for a quorum.

(3) A director present at a meeting but objecting to notice under section 614(2) of this act does not count toward a quorum.

**NEW SECTION. Sec. 616. VOTING.** (1) Each director shall have one vote for purposes of decisions made by the board of directors.

(2) Unless the organic rules provide for a greater number, the affirmative vote of a majority of directors present at a meeting is required for action by the board of directors.

**NEW SECTION. Sec. 617. COMMITTEES.** (1) Unless the organic rules otherwise provide, a board of directors may create one or more committees and appoint one or more individuals to serve on a committee.

(2) Unless the organic rules otherwise provide, an individual appointed to serve on a committee of a limited cooperative association need not be a director or member.

(3) An individual who is not a director and is serving on a committee has the same rights, duties, and obligations as a director serving on the committee.

(4) Unless the organic rules otherwise provide, each committee of a limited cooperative association may exercise the powers delegated to it by the board of directors, but a committee may not:

(a) Approve allocations or distributions except according to a formula or method prescribed by the board of directors;

(b) Approve or propose to members action requiring approval of members;

or  
(c) Fill vacancies on the board of directors or any of its committees.

**NEW SECTION. Sec. 618. STANDARDS OF CONDUCT AND LIABILITY.** Except as otherwise provided in section 620 of this act:

(1) The discharge of the duties of a director or member of a committee of the board of directors is governed by the law applicable to directors of entities organized under Title 23B RCW; and

(2) The liability of a director or member of a committee of the board of directors is governed by the law applicable to directors of entities organized under Title 23B RCW.

**NEW SECTION. Sec. 619. CONFLICT OF INTEREST.** (1) The law applicable to conflicts of interest between a director of an entity organized under Title 23B RCW governs conflicts of interest between a limited cooperative association and a director or member of a committee of the board of directors.

(2) A director does not have a conflict of interest under chapter 23.95 RCW and this chapter or the organic rules solely because the director's conduct relating to the duties of the director may further the director's own interest.

**NEW SECTION. Sec. 620.** OTHER CONSIDERATIONS OF DIRECTORS. Unless the articles of organization otherwise provide, in considering the best interests of a limited cooperative association, a director of the association in discharging the duties of director, in conjunction with considering the long and short term interest of the association and its members, may consider any or all of:

- (1) The interest of employees, customers, and suppliers of the association;
- (2) The interest of the local, state, national, or world community in which the association operates;
- (3) The environment; and
- (4) Other cooperative principles and values that may be applied in the context of the decision.

**NEW SECTION. Sec. 621.** RIGHT OF DIRECTOR OR COMMITTEE MEMBER TO INFORMATION. A director or a member of a committee appointed under section 617 of this act may obtain, inspect, and copy all information regarding the state of activities and financial condition of the limited cooperative association and other information regarding the activities of the association if the information is reasonably related to the performance of the director's duties as director or the committee member's duties as a member of the committee. Information obtained in accordance with this section may not be used in any manner that would violate any duty of or to the association.

**NEW SECTION. Sec. 622.** APPOINTMENT AND AUTHORITY OF OFFICERS. (1) A limited cooperative association has the officers:

- (a) Provided in the organic rules; or
  - (b) Established by the board of directors in a manner not inconsistent with the organic rules.
- (2) The organic rules may designate or, if the organic rules do not designate, the board of directors shall designate, one of the association's officers for preparing all records required by section 110 of this act and for the authentication of records.

(3) Unless the organic rules otherwise provide, the board of directors shall appoint the officers of the limited cooperative association.

(4) Officers of a limited cooperative association shall perform the duties the organic rules prescribe or as authorized by the board of directors in a manner consistent with the organic rules.

(5) The election or appointment of an officer of a limited cooperative association does not of itself create a contract between the association and the officer.

(6) Unless the organic rules otherwise provide, an individual may simultaneously hold more than one office in a limited cooperative association.

**NEW SECTION. Sec. 623.** RESIGNATION AND REMOVAL OF OFFICERS. (1) The board of directors may remove an officer at any time with or without cause.

(2) An officer of a limited cooperative association may resign at any time by giving notice in a record to the association. Unless the notice specifies a later time, the resignation is effective when the notice is given.

**PART 7**  
**INDEMNIFICATION**

NEW SECTION. **Sec. 701.** INDEMNIFICATION AND ADVANCEMENT OF EXPENSES—INSURANCE. (1) Indemnification and advancement of expenses of an individual who has incurred liability or is a party, or is threatened to be made a party, to litigation because of the performance of a duty to, or activity on behalf of, a limited cooperative association is governed by Title 23B RCW.

(2) A limited cooperative association may purchase and maintain insurance on behalf of any individual against liability asserted against or incurred by the individual to the same extent and subject to the same conditions as provided by Title 23B RCW.

**PART 8**  
**CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS**

NEW SECTION. **Sec. 801.** MEMBERS' CONTRIBUTIONS. Unless the organic rules establish the amount, manner, or method of determining any contribution requirements for members, the board of directors may establish the amount, manner, or other method of determining any contribution requirements for members.

NEW SECTION. **Sec. 802.** CONTRIBUTION AND VALUATION. (1) Unless the organic rules otherwise provide, the contributions of a member to a limited cooperative association may consist of property transferred to, services performed for, or another benefit provided to the association or an agreement to transfer property to, perform services for, or provide another benefit to the association.

(2) The receipt and acceptance of contributions and the valuation of contributions must be reflected in a limited cooperative association's records.

(3) Unless the organic rules otherwise provide, the board of directors shall determine the value of a member's contributions received or to be received and the determination by the board of directors of valuation is conclusive for purposes of determining whether the member's contribution obligation has been met.

NEW SECTION. **Sec. 803.** ALLOCATIONS OF PROFITS AND LOSSES. (1) The organic rules may provide for allocating profits of a limited cooperative association among members, among persons that are not members but conduct business with the association, to an unallocated account, or to any combination thereof. Unless the organic rules otherwise provide, losses of the association must be allocated in the same proportion as profits.

(2) Unless the organic rules otherwise provide, all profits and losses of a limited cooperative association must be allocated to patron members.

(3) If a limited cooperative association has investor members, the organic rules may not reduce the allocation to patron members to less than fifty percent of profits. For purposes of this subsection, the following rules apply:

(a) Amounts paid or due on contracts for the delivery to the association by patron members of products, goods, or services are not considered amounts allocated to patron members.

(b) Amounts paid, due, or allocated to investor members as a stated fixed return on equity are considered amounts allocated to investor members.

(4) Unless prohibited by the organic rules, in determining the profits for allocation under subsections (1) through (3) of this section, the board of directors may first deduct and set aside a part of the profits to create or accumulate:

(a) An unallocated capital reserve; and

(b) Reasonable unallocated reserves for specific purposes, including expansion and replacement of capital assets; education, training, and cooperative development; creation and distribution of information concerning principles of cooperation; and community responsibility.

(5) Subject to subsections (2) and (6) of this section and the organic rules, the board of directors shall allocate the amount remaining after any deduction or setting aside of profits for unallocated reserves under subsection (4) of this section:

(a) To patron members in the ratio of each member's patronage to the total patronage of all patron members during the period for which allocations are to be made; and

(b) To investor members, if any, in the ratio of each investor member's contributions to the total contributions of all investor members.

(6) For purposes of allocation of profits and losses or specific items of profits or losses of a limited cooperative association to members, the organic rules may establish allocation units or methods based on separate classes of members or, for patron members, on class, function, division, district, department, allocation units, pooling arrangements, members' contributions, or other equitable methods.

**NEW SECTION. Sec. 804.** DISTRIBUTIONS. (1) Unless the organic rules otherwise provide and subject to section 806 of this act, the board of directors may authorize, and the limited cooperative association may make, distributions to members.

(2) Unless the organic rules otherwise provide, distributions to members may be made in any form, including money, capital credits, allocated patronage equities, revolving fund certificates, and the limited cooperative association's own or other securities.

**NEW SECTION. Sec. 805.** REDEMPTION OR REPURCHASE. Property distributed to a member by a limited cooperative association, other than money, may be redeemed or repurchased as provided in the organic rules but a redemption or repurchase may not be made without authorization by the board of directors. The board may withhold authorization for any reason in its sole discretion. A redemption or repurchase is treated as a distribution for purposes of section 806 of this act.

**NEW SECTION. Sec. 806.** LIMITATIONS ON DISTRIBUTIONS. (1) In this section, "distribution" does not include reasonable compensation for present or past services or other payments made in the ordinary course of business for commodities or goods or under a bona fide retirement or other bona fide benefits program.

(2) A limited cooperative association may not make a distribution, including a distribution under section 1008 of this act, if after the distribution:

(a) The association would not be able to pay its debts as they become due in the ordinary course of the association's activities and affairs; or

(b) The association's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the association were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of members whose preferential rights are superior to the rights of persons receiving the distribution.

(3) A limited cooperative association may base a determination that a distribution is not prohibited under subsection (2) of this section on:

(a) Financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or

(b) A fair valuation or other method that is reasonable under the circumstances.

(4) Except as otherwise provided in subsection (5) of this section, the effect of a distribution allowed under subsection (2) of this section is measured:

(a) In the case of a distribution by purchase, redemption, or other acquisition of financial rights in the limited cooperative association, as of the earlier of:

(i) The date money or other property is transferred or debt is incurred by the association; or

(ii) The date the person entitled to the distribution ceases to own the financial rights being acquired by the association in return for the distribution;

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(c) In all other cases, as of the date:

(i) The distribution is authorized, if the payment occurs not later than one hundred twenty days after that date; or

(ii) The payment is made, if the payment occurs more than one hundred twenty days after the distribution is authorized.

(5) A limited cooperative association's indebtedness incurred by reason of a distribution made in accordance with this section is at parity with the association's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(6) A limited cooperative association's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection (2) of this section if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(7) In measuring the effect of a distribution under section 1008 of this act, the liabilities of a dissolved limited cooperative association do not include any claim that has been disposed of under sections 1009 through 1011 of this act.

**NEW SECTION. Sec. 807. LIABILITY FOR IMPROPER DISTRIBUTIONS—LIMITATION OF ACTION.** (1) A director of a limited cooperative association who votes for or assents to a distribution made in violation of section 806 of this act or the association's articles of organization is personally liable to the association for the amount of the distribution that exceeds the amount that could have been distributed without violating section 806 of this act or the articles of organization if it is established that the director

did not perform the director's duties in compliance with section 618 of this act. In any proceeding commenced under this section, a director has all of the defenses ordinarily available to a director.

(2) A director held liable under subsection (1) of this section for an unlawful distribution is entitled to contribution:

(a) From every other director who could be held liable under subsection (1) of this section for the unlawful distribution; and

(b) From each member for the amount the member accepted knowing the distribution was made in violation of section 806 of this act or the articles of organization.

(3) A member who accepts a distribution made in violation of section 806 of this act or the articles of organization is personally liable to the corporation for the amount of any distribution received by the member to the extent it exceeds the amount that could have been distributed to the member without violating section 806 of this act or the articles of organization, if it is established that the member accepted the distribution knowing that it was made in violation of section 806 of this act or the articles of organization.

(4) A member held liable under subsection (3) of this section for an unlawful distribution is entitled to contribution from every other member who could be held liable under subsection (3) of this section for the unlawful distribution.

(5) A proceeding under this section is barred unless it is commenced prior to the earlier of (a) the expiration of two years after the date on which the effect of the distribution was measured under section 806(4) of this act, or (b) the expiration of the period specified in section 1010(3) of this act.

**NEW SECTION. Sec. 808. RELATION TO STATE SECURITIES LAW.** A patron member's interest in a limited cooperative association has the same exemption as provided for substantially similar interests in cooperatives under RCW 21.20.320(16).

**NEW SECTION. Sec. 809. ALTERNATIVE DISTRIBUTION OF UNCLAIMED PROPERTY, DISTRIBUTIONS, REDEMPTIONS, OR PAYMENTS.** A limited cooperative association may distribute unclaimed property, distributions, redemptions, or payments under chapter 23.86 RCW.

## PART 9 DISSOCIATION

**NEW SECTION. Sec. 901. MEMBER'S DISSOCIATION.** (1) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by express will.

(2) Unless the organic rules otherwise provide, a member's dissociation from a limited cooperative association is wrongful only if:

(a) It is in breach of an express provision of the organic rules; or

(b) It occurs before the termination of the limited cooperative association and:

(i) The person is expelled as a member under subsection (4)(c) or (d) of this section; or

(ii) In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a member because it dissolved or terminated in bad faith.

(3) Unless the organic rules otherwise provide, a person that wrongfully dissociates as a member is liable to the limited cooperative association and to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or liability of the person to the association.

(4) A member is dissociated as a member when:

(a) The limited cooperative association receives notice in a record of the member's express will to dissociate as a member, or if the member specifies in the notice an effective date later than the date the association received notice, on that later date;

(b) An event stated in the organic rules as causing the person's dissociation occurs;

(c) The person's entire interest is transferred in a foreclosure sale;

(d) The person is expelled as a member under the organic rules;

(e) The person is expelled as a member by the board of directors if:

(i) It is unlawful to carry on the limited cooperative association's activities and affairs with the person as a member;

(ii) There has been a transfer of all the member's financial rights in the association, other than:

(A) A transfer for security purposes; or

(B) A charging order which has not been foreclosed;

(iii) The person is an unincorporated entity that has been dissolved and its activities and affairs are being wound up;

(iv) The person is a corporation or cooperative and:

(A) The person filed a certificate of dissolution or the equivalent, or the jurisdiction of formation revoked the person's charter or right to conduct business;

(B) The association sends a notice to the person that it will be expelled as a member for a reason described in (e)(iv)(A) of this subsection (4); and

(C) Not later than ninety days after the notice was sent under (e)(iv)(B) of this subsection (4), the person did not revoke its certificate of dissolution or the equivalent, or the jurisdiction of formation did not reinstate the person's charter or right to conduct business; or

(v) The member is an individual and is adjudged incompetent;

(f) In the case of an individual, the individual dies;

(g) In the case of a member that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire financial rights in the limited cooperative association are distributed;

(h) In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire financial interest in the association is distributed;

(i) In the case of a person that is not an individual, partnership, limited liability company, cooperative, corporation, trust, or estate, the existence of the person terminates; or

(j) The association's participation in a merger under sections 1308 through 1313 of this act that causes the person to cease to be a member.

**NEW SECTION. Sec. 902. EFFECT OF DISSOCIATION.** (1) When a person is dissociated as a member:



(a) The person's right to participate as a member in the management and conduct of the limited cooperative association's activities and affairs terminates; and

(b) Subject to section 903 of this act, any financial rights owned by the person in the person's capacity as a member immediately before dissociation are owned by the person as a transferee.

(2) A person's dissociation as a member does not of itself discharge the person from any debt, obligation, or other liability to the limited cooperative association or the other members which the person incurred while a member.

**NEW SECTION. Sec. 903. POWER OF LEGAL REPRESENTATIVE OF DECEASED MEMBER.** If a member dies, the deceased member's legal representative may exercise for the purposes of settling the estate, the rights the deceased member had under section 405 of this act.

## PART 10 DISSOLUTION

**NEW SECTION. Sec. 1001. DISSOLUTION AND WINDING UP.** A limited cooperative association is dissolved only as provided in this section and sections 1002 through 1013 of this act and upon dissolution winds up in accordance with this section and sections 1002 through 1013 of this act.

**NEW SECTION. Sec. 1002. NONJUDICIAL DISSOLUTION.** Except as otherwise provided in section 1003 of this act and RCW 23.95.615, a limited cooperative association is dissolved and its activities must be wound up:

(1) Upon the occurrence of an event or at a time specified in the articles of organization;

(2) Upon the action of the association's organizers, board of directors, or members under section 1004 or 1005 of this act; or

(3) Ninety days after the dissociation of a member, which results in the association having one patron member and no other members, unless the association:

(a) Has a sole member that is a cooperative; or

(b) Not later than the end of the ninety-day period, admits at least one member in accordance with the organic rules and has at least two members, at least one of which is a patron member.

**NEW SECTION. Sec. 1003. JUDICIAL DISSOLUTION.** A superior court may dissolve a limited cooperative association or order any action that under the circumstances is appropriate and equitable:

(1) In a proceeding initiated by the attorney general, if:

(a) The association obtained its articles of organization through fraud; or

(b) The association has continued to exceed or abuse the authority conferred upon it by law; or

(2) In a proceeding initiated by a member, if:

(a) The directors are deadlocked in the management of the association's affairs, the members are unable to break the deadlock, and irreparable injury to the association is occurring or is threatened because of the deadlock;

(b) The directors or those in control of the association have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) The members are deadlocked in voting power and have failed to elect successors to directors whose terms have expired for two consecutive periods during which annual members meetings were held or were to be held; or

(d) The assets of the association are being misapplied or wasted.

**NEW SECTION. Sec. 1004. VOLUNTARY DISSOLUTION BEFORE COMMENCEMENT OF ACTIVITY.** A majority of the organizers or initial directors of a limited cooperative association that has not yet begun business activity or the conduct of its affairs may dissolve the association.

**NEW SECTION. Sec. 1005. VOLUNTARY DISSOLUTION BY THE BOARD AND MEMBERS.** (1) Except as otherwise provided in section 1004 of this act, for a limited cooperative association to voluntarily dissolve:

(a) A resolution to dissolve must be approved by a majority vote of the board of directors unless a greater percentage is required by the organic rules;

(b) The board of directors must call a members meeting to consider the resolution, to be held not later than ninety days after adoption of the resolution; and

(c) Subject to section 419 of this act, the board of directors must mail or otherwise transmit or deliver to each member in a record that complies with section 408 of this act:

(i) The resolution required by (a) of this subsection;

(ii) A recommendation that the members vote in favor of the resolution or, if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis of that determination; and

(iii) Notice of the members meeting, which must be given in the same manner as notice of a special meeting of members.

(2) Subject to subsection (3) of this section, a resolution to dissolve must be approved by:

(a) At least two-thirds of the voting power of members present at a members meeting called under subsection (1)(b) of this section; and

(b) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage.

(3) The organic rules may require that the percentage of votes under subsection (2)(a) of this section is:

(a) A different percentage that is not less than a majority of members voting at the meeting;

(b) Measured against the voting power of all members; or

(c) A combination of (a) and (b) of this subsection.

**NEW SECTION. Sec. 1006. WINDING UP.** (1) A dissolved limited cooperative association shall wind up its activities and affairs, and except as provided in section 1007 of this act, the association continues after dissolution only for the purpose of winding up.

(2) In winding up its activities and affairs, the board of directors:

(a) Shall discharge the association's debts, obligations, or other liabilities, settle and close the association's activities, and marshal and distribute the assets of the association; and

(b) May:

(i) Deliver to the secretary of state for filing a statement of dissolution stating the name of the association and that the association is dissolved;

(ii) Preserve the association's activities, affairs, and property as a going concern for a reasonable time;

(iii) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(iv) Transfer the association's property;

(v) Settle disputes by mediation or arbitration;

(vi) Deliver to the secretary of state for filing a statement of termination stating the name of the company and that the company is terminated; and

(vii) Perform other acts necessary or appropriate to the winding up.

(3) After dissolution and upon application of a limited cooperative association, a member, or a holder of financial rights, a superior court may order judicial supervision of the winding up of the association, including the appointment of a person to wind up the association's activities, if:

(a) After a reasonable time, the association has not wound up its activities;

or

(b) The applicant establishes other good cause.

(4) If a person is appointed pursuant to subsection (3) of this section to wind up the activities of a limited cooperative association, the association shall promptly deliver to the secretary of state for filing an amendment to the articles of organization to reflect the appointment.

**NEW SECTION. Sec. 1007. RESCINDING DISSOLUTION.** (1) A limited cooperative association may rescind its dissolution, unless a statement of termination applicable to the association is effective, a superior court has entered an order under section 1003 of this act dissolving the association, or the secretary of state has dissolved the association under RCW 23.95.610.

(2) Rescinding dissolution under this section requires:

(a) The affirmative vote or consent of each member;

(b) If a statement of dissolution applicable to the limited cooperative association has been filed by the secretary of state but has not become effective, the delivery to the secretary of state for filing of a statement of withdrawal applicable to the statement of dissolution; and

(c) If a statement of dissolution applicable to the limited cooperative association is effective, the delivery to the secretary of state for filing of a statement of rescission stating the name of the association and that dissolution has been rescinded under this section.

(3) If a limited cooperative association rescinds its dissolution:

(a) The association resumes carrying on its activities and affairs as if dissolution had never occurred;

(b) Subject to (c) of this subsection, any liability incurred by the association after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(c) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

**NEW SECTION. Sec. 1008. DISTRIBUTION OF ASSETS IN WINDING UP.** (1) In winding up its activities and affairs, the limited cooperative

association shall apply its assets to discharge its obligations to creditors, including members that are creditors. The association shall apply any remaining assets to pay in money the net amount distributable to members in accordance with their right to distributions under subsection (2) of this section.

(2) Unless the organic rules otherwise provide, in this subsection "financial interests" means the amounts recorded in the names of members in the records of a limited cooperative association at the time a distribution is made, including amounts paid to become a member, amounts allocated but not distributed to members, and amounts of distributions authorized but not yet paid to members. Unless the organic rules otherwise provide, each member is entitled to a distribution from the association of any remaining assets in the proportion of the member's financial interests to the total financial interests of the members after all other obligations are satisfied.

**NEW SECTION. Sec. 1009. KNOWN CLAIMS AGAINST DISSOLVED LIMITED COOPERATIVE ASSOCIATION.** (1) Except as otherwise provided in subsection (4) of this section, a dissolved limited cooperative association may give notice of a known claim under subsection (2) of this section, which has the effect provided in subsection (3) of this section.

(2) A dissolved limited cooperative association in a record may notify its known claimants of the dissolution. The notice must:

- (a) Specify the information required to be included in a claim;
- (b) State that a claim must be in writing and provide a mailing address to which the claim is to be sent;
- (c) State the deadline for receipt of a claim, which may not be less than one hundred twenty days after the date the notice is received by the claimant; and
- (d) State that the claim will be barred if not received by the deadline.

(3) A claim against a dissolved limited cooperative association is barred if the requirements of subsection (2) of this section are met, and:

- (a) The claim is not received by the specified deadline; or
- (b) If the claim is timely received but rejected by the association:
  - (i) The association causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the association to enforce the claim not later than ninety days after the claimant receives the notice; and
  - (ii) The claimant does not commence the required action not later than ninety days after the claimant receives the notice.

(4) This section does not apply to a claim based on an event occurring after the date of dissolution or a liability that on that date is contingent.

**NEW SECTION. Sec. 1010. OTHER CLAIMS AGAINST DISSOLVED LIMITED COOPERATIVE ASSOCIATION.** (1) A dissolved limited cooperative association may publish notice of its dissolution and request persons having claims against the association to present them in accordance with the notice.

- (2) A notice authorized under subsection (1) of this section must:
  - (a) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited cooperative association's principal office is located or, if the principal office is not located in this state, in

the county in which the office of the association's registered agent is or was last located;

(b) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and

(c) State that a claim against the association is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice.

(3) If a dissolved limited cooperative association publishes a notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the association not later than three years after the publication date of the notice:

(a) A claimant that did not receive notice in a record under section 1009 of this act;

(b) A claimant whose claim was timely sent to the company but not acted on; and

(c) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(4) A claim not barred under this section or section 1009 of this act may be enforced:

(a) Against a dissolved limited cooperative association, to the extent of its undistributed assets; and

(b) Except as provided in section 1011 of this act, if the assets of the association have been distributed after dissolution, against a member or holder of financial rights to the extent of that person's proportionate share of the claim or the assets distributed to the person after dissolution, whichever is less, but a person's total liability for all claims under this subsection (4)(b) may not exceed the total amount of assets distributed to the person after dissolution.

**NEW SECTION. Sec. 1011. COURT PROCEEDINGS.** (1) A dissolved limited cooperative association that has published a notice under section 1010 of this act may file an application with the superior court in the county where the association's principal office is located or, if the principal office is not located in this state, where the office of its registered agent is or was last located, for a determination of the amount and form of security to be provided for payment of claims that are reasonably expected to arise after the date of dissolution based on facts known to the association and:

(a) At the time of the application:

(i) Are contingent; or

(ii) Have not been made known to the association; or

(b) Are based on an event occurring after the date of dissolution.

(2) Security is not required for a claim that is or is reasonably anticipated to be barred under section 1010 of this act.

(3) Not later than ten days after filing an application under subsection (1) of this section, the dissolved limited cooperative association shall give notice of the proceeding to each claimant holding a contingent claim known to the association.

(4) In a proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable

fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited cooperative association.

(5) A dissolved limited cooperative association that provides security in the amount and form ordered by the court under subsection (1) of this section satisfies the association's obligations with respect to claims that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution. Such claims may not be enforced against a member or holder of financial rights on account of assets received in liquidation.

**NEW SECTION. Sec. 1012. STATEMENT OF DISSOLUTION.** (1) A limited cooperative association that has dissolved or is about to dissolve may deliver to the secretary of state for filing a statement of dissolution that states:

- (a) The name of the association;
- (b) The date the association dissolved or will dissolve; and
- (c) Any other information the association considers relevant.

(2) A person has notice of a limited cooperative association's dissolution on the later of:

- (a) Ninety days after a statement of dissolution is filed; or
- (b) The effective date stated in the statement of dissolution.

**NEW SECTION. Sec. 1013. STATEMENT OF TERMINATION.** (1) A dissolved limited cooperative association that has completed winding up may deliver to the secretary of state for filing a statement of termination that states:

- (a) The name of the association;
- (b) The date of filing of its initial articles of organization; and
- (c) That the association is terminated.

(2) The filing of a statement of termination does not itself terminate the limited cooperative association.

## PART 11

### ACTIONS BY MEMBERS

**NEW SECTION. Sec. 1101. DERIVATIVE ACTION.** A member may maintain a derivative action against a cooperative in the same manner as a shareholder may maintain a derivative action against a corporation under Title 23B RCW.

## PART 12

### DISPOSITION OF ASSETS

**NEW SECTION. Sec. 1201. DISPOSITION OF ASSETS NOT REQUIRING MEMBER APPROVAL.** Unless the articles of organization otherwise provide, member approval under section 1202 of this act is not required for a limited cooperative association to:

(1) Sell, lease, exchange, license, or otherwise dispose of all or any part of the assets of the association in the usual and regular course of business; or

(2) Mortgage, pledge, dedicate to the repayment of indebtedness, or encumber in any way all or any part of the assets of the association whether or not in the usual and regular course of business.

**NEW SECTION. Sec. 1202. MEMBER APPROVAL OF OTHER DISPOSITION OF ASSETS.** A sale, lease, exchange, license, or other disposition of assets of a limited cooperative association, other than a disposition described in section 1201 of this act, requires approval of the association's

members under sections 1203 and 1204 of this act if the disposition leaves the association without significant continuing business activity.

**NEW SECTION. Sec. 1203.** NOTICE AND ACTION BY BOARD OF DIRECTORS ON DISPOSITION OF ASSETS REQUIRING MEMBER APPROVAL. For a limited cooperative association to dispose of assets under section 1202 of this act:

(1) A majority of the board of directors, or a greater percentage if required by the organic rules, must approve the proposed disposition; and

(2) The board of directors must call a members meeting to consider the proposed disposition and, subject to section 419 of this act, mail or otherwise transmit or deliver in a record to each member:

(a) The terms of the proposed disposition;

(b) A recommendation that the members approve the disposition, or if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis for that determination;

(c) A statement of any condition of the board's submission of the proposed disposition to the members; and

(d) Notice of the meeting at which the proposed disposition will be considered, which must be given in the same manner as notice of a special meeting of members.

**NEW SECTION. Sec. 1204.** MEMBER ACTION ON DISPOSITION OF ASSETS. (1) Subject to subsection (2) of this section, a disposition of assets under section 1202 of this act must be approved by:

(a) At least two-thirds of the voting power of members present at a members meeting called under section 1203(2) of this act; and

(b) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(2) The organic rules may require that the percentage of votes under subsection (1)(a) of this section is:

(a) A different percentage that is not less than a majority of members voting at the meeting;

(b) Measured against the voting power of all members; or

(c) A combination of (a) and (b) of this subsection.

(3) Subject to any contractual obligations, after a disposition of assets is approved and at any time before the consummation of the disposition, a limited cooperative association may approve an amendment to the contract for disposition or the resolution authorizing the disposition or approve abandonment of the disposition:

(a) As provided in the contract or the resolution; and

(b) Except as prohibited by the resolution, with the same affirmative vote of the board of directors and of the members as was required to approve the disposition, except that approval of the members is not required to approve abandonment of the disposition.

(4) The voting requirements for districts, classes, or voting groups under section 304 of this act apply to approval of a disposition of assets under this section and sections 1201 through 1203 of this act.

**PART 13**  
**CONVERSION AND MERGER**

NEW SECTION. **Sec. 1301.** DEFINITIONS. (1) In this section and sections 1302 through 1320 of this act:

(a) "Approve" means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under the entity's organic rules, organic law, and other law to:

(i) Propose a conversion or merger subject to this subchapter;

(ii) Adopt and approve the terms and conditions of the conversion or merger; and

(iii) Conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

(b) "Conversion" means a transaction authorized by sections 1302 through 1307 of this act.

(c) "Converted entity" means the converting entity as it continues in existence after a conversion.

(d) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to section 1303 of this act.

(e) "Interest holder liability" means:

(i) Personal liability for a liability of an entity which is imposed on a person:

(A) Solely by reason of the status of the person as an interest holder; or

(B) By the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

(ii) An obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(f) "Merger" means a transaction in which two or more merging entities are combined into a surviving entity pursuant to a record filed by the secretary of state.

(g) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(h) "Plan" means a plan of merger or plan of conversion.

(i) "Plan of conversion" means a plan under section 1303 of this act.

(j) "Plan of merger" means a plan under section 1309 of this act.

(k) "Protected agreement" means:

(i) A record evidencing indebtedness and any related agreement in effect on the effective date of this section;

(ii) An agreement that is binding on an entity on the effective date of this section;

(iii) The organic rules of an entity in effect on the effective date of this section; or

(iv) An agreement that is binding on any of the governors or interest holders of an entity on the effective date of this section.

(l)(i) "Qualifying entity" means, except as provided in (l)(ii) of this subsection, a domestic entity:

(A) Organized under chapter 23.86 RCW; or

(B) Organized under chapter 24.06 RCW and taking the election provided in RCW 24.06.032(1).



(ii) "Qualifying entity" does not include an entity that is organized for the purpose of generating, purchasing, selling, marketing, transmitting, or distributing electric energy.

(m) "Statement of conversion" means a statement under section 1306 of this act.

(n) "Statement of merger" means a statement under section 1312 of this act.

(o) "This subchapter" means this section and sections 1302 through 1320 of this act.

(2) The following definitions from RCW 23.95.105 apply to this subchapter: "Domestic," "entity," "execute," "executes," and "executed," "foreign," "governor," "interest," "interest holder," "jurisdiction," "jurisdiction of formation," "organic law," "organic rules," "person," "private organic rules," "property," "public organic record," "receipt," "record," "state," "transfer," and "type of entity."

**NEW SECTION. Sec. 1302.** CONVERSION AUTHORIZED. By complying with this section and sections 1303 through 1307 of this act, a domestic qualifying entity may become a domestic limited cooperative association.

**NEW SECTION. Sec. 1303.** PLAN OF CONVERSION. (1) A qualifying entity may convert to a limited cooperative association under this subchapter by approving a plan of conversion. The plan must be in a record and contain:

(a) The name and type of entity of the converting entity;

(b) The name of the converted entity;

(c) The manner of converting the interests in the converting entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) The proposed public organic record of the converted entity if it will be a filing entity;

(e) The full text of the private organic rules of the converted entity which are proposed to be in a record;

(f) The other terms and conditions of the conversion; and

(g) Any other provision required by the law of this state or the organic rules of the converting entity.

(2) In addition to the requirements of subsection (1) of this section, a plan of conversion may contain any other provision not prohibited by law.

**NEW SECTION. Sec. 1304.** APPROVAL OF CONVERSION. A plan of conversion is not effective unless it has been approved:

(1) By a converting entity:

(a) In accordance with the requirements, if any, in its organic rules for approval of a conversion; or

(b) By all of the interest holders of the entity entitled to vote on or consent to any matter if neither the entity's organic law nor the entity's organic rules provide for approval of a conversion; and

(2) In a record, by each interest holder of a converting entity which will have interest holder liability for debts, obligations, and other liabilities that are incurred after the conversion becomes effective, unless, in the case of an entity that is not a business or nonprofit corporation:

(a) The organic rules of the entity provide in a record for the approval of a conversion in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

(b) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

**NEW SECTION. Sec. 1305. AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION.** (1) A plan of conversion of a converting entity may be amended:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) By its governors or interest holders in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(i) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(ii) The public organic record, if any, or private organic rules of the converted entity which will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(iii) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of conversion has been approved and before a statement of conversion is effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a converting entity may abandon the plan in the same manner as the plan was approved.

(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the secretary of state for filing and before the statement is effective, a statement of abandonment, executed by the converting entity, must be delivered to the secretary of state for filing before the statement of conversion is effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) The name of the converting entity;

(b) The date on which the statement of conversion was filed by the secretary of state; and

(c) A statement that the conversion has been abandoned in accordance with this section.

**NEW SECTION. Sec. 1306. STATEMENT OF CONVERSION—EFFECTIVE DATE OF CONVERSION.** (1) A statement of conversion must be executed by the converting entity and delivered to the secretary of state for filing.

(2) A statement of conversion must contain:

(a) The name, jurisdiction of formation, and type of entity of the converting entity;

- (b) The name of the converted entity;
  - (c) If the statement of conversion is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety days after the date of filing;
  - (d) A statement that the plan of conversion was approved in accordance with this subchapter; and
  - (e) The public organic record of the converted entity, as an attachment.
- (3) In addition to the requirements of subsection (2) of this section, a statement of conversion may contain any other provision not prohibited by law.
- (4) The public organic record of the converted entity must satisfy the requirements of the law of this state, except that the public organic record does not need to be executed and may omit any provision that is not required to be included in a restatement of the public organic record.
- (5) A plan of conversion that is executed by a converting entity and meets all the requirements of subsection (2) of this section may be delivered to the secretary of state for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this subsection, references in this subchapter to a statement of conversion refer to the plan of conversion filed under this subsection.
- (6) A statement of conversion is effective on the date and time of filing or the later date and time specified in the statement of conversion.
- (7) The conversion becomes effective when the statement of conversion is effective.

**NEW SECTION. Sec. 1307. EFFECT OF CONVERSION.** (1) When a conversion becomes effective:

- (a) The converted entity is:
    - (i) Organized under and subject to the organic law of the converted entity; and
    - (ii) The same entity without interruption as the converting entity;
  - (b) All property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;
  - (c) All debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
  - (d) Except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
  - (e) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
  - (f) If a converted entity is a filing entity, its public organic record is effective;
  - (g) The private organic rules of the converted entity which are to be in a record, if any, approved as part of the plan of conversion are effective; and
  - (h) The interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under the converting entity's organic law.
- (2) Except as otherwise provided in the organic law or organic rules of the converting entity, the conversion does not give rise to any rights that an interest

holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the converting entity.

(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that are incurred after the conversion becomes effective.

(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a converting entity with respect to which the person had interest holder liability is subject to the following rules:

(a) The conversion does not discharge any interest holder liability under the organic law of the converting entity to the extent the interest holder liability was incurred before the conversion became effective.

(b) The person does not have interest holder liability under the organic law of the domestic entity for any debt, obligation, or other liability that is incurred after the conversion becomes effective.

(c) The organic law of the converting entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under (a) of this subsection as if the conversion had not occurred.

(d) The person has whatever rights of contribution from any other person as are provided by other law or the organic rules of the converting entity with respect to any interest holder liability preserved under (a) of this subsection as if the conversion had not occurred.

(5) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

**NEW SECTION. Sec. 1308. MERGER AUTHORIZED.** (1) Except as otherwise provided in this section, by complying with this section and sections 1309 through 1313 of this act:

(a) One or more domestic limited cooperative associations may merge with one or more domestic cooperative associations organized under this chapter or chapter 23.86 or 24.06 RCW or with one or more foreign cooperative associations into a domestic surviving cooperative association or foreign surviving cooperative association; and

(b) Two or more foreign cooperative associations may merge into a domestic limited cooperative association.

(2) Except as otherwise provided in this section, by complying with the provisions of this section and sections 1309 through 1313 of this act applicable to foreign cooperative associations, a foreign cooperative association may be a party to a merger under this section and sections 1309 through 1313 of this act or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

**NEW SECTION. Sec. 1309. PLAN OF MERGER.** (1) A domestic limited cooperative association may become a party to a merger under this section and sections 1308 and 1310 through 1313 of this act by approving a plan of merger. The plan must be in a record and contain:

(a) As to each merging cooperative association, its name, jurisdiction of formation, and type of cooperative association;

(b) If the surviving cooperative association is to be created in the merger, a statement to that effect and the association's name, jurisdiction of formation, and type of association;

(c) The manner of converting the interests in each party to the merger into interests, obligations, money, other property, rights to acquire interests, or any combination of the foregoing;

(d) If the surviving cooperative association exists before the merger, any proposed amendments to:

(i) Its public organic record, if any; and

(ii) Its private organic rules that are, or are proposed to be, in a record;

(e) If the surviving cooperative association is to be created in the merger:

(i) Its proposed public organic record, if any; and

(ii) The full text of its private organic rules that are proposed to be in a record;

(f) The other terms and conditions of the merger; and

(g) Any other provision required by the law of a merging cooperative association's jurisdiction of formation or the organic rules of a merging cooperative association.

(2) In addition to the requirements of subsection (1) of this section, a plan of merger may contain any other provision not prohibited by law.

**NEW SECTION. Sec. 1310. APPROVAL OF MERGER.** (1) A plan of merger is not effective unless it has been approved by a domestic merging limited cooperative association as provided in section 418 of this act.

(2) A merger involving a domestic merging cooperative association that is not a limited cooperative association is not effective unless the merger is approved by that cooperative association in accordance with its organic law.

(3) A merger involving a foreign merging cooperative association is not effective unless the merger is approved by the foreign cooperative association in accordance with the law of the foreign cooperative association's jurisdiction of formation.

**NEW SECTION. Sec. 1311. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER.** (1) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

(2) A domestic merging limited cooperative association may approve an amendment of a plan of merger:

(a) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) By its directors or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:

(i) The amount or kind of interests, obligations, money, other property, rights to acquire interests, or any combination of the foregoing, to be received by the members of any party to the plan;

(ii) The public organic record, if any, or private organic rules of the surviving cooperative association that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving cooperative association under its organic law or organic rules; or

(iii) Any other terms or conditions of the plan, if the change would adversely affect the members in any material respect.

(3) After a plan of merger has been approved and before a statement of merger is effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited cooperative association may abandon the plan in the same manner as the plan was approved.

(4) If a plan of merger is abandoned after a statement of merger has been delivered to the secretary of state for filing and before the statement is effective, a statement of abandonment, signed by a party to the plan, must be delivered to the secretary of state for filing before the statement of merger is effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:

- (a) The name of each party to the plan of merger;
- (b) The date on which the statement of merger was filed by the secretary of state; and
- (c) A statement that the merger has been abandoned in accordance with this section.

**NEW SECTION. Sec. 1312. STATEMENT OF MERGER—EFFECTIVE DATE OF MERGER.** (1) A statement of merger must be signed by each merging entity and delivered to the secretary of state for filing.

(2) A statement of merger must contain:

- (a) The name, jurisdiction of formation, and type of cooperative association of each merging cooperative association that is not the surviving entity;
- (b) The name, jurisdiction of formation, and type of entity of the surviving cooperative association;
- (c) If the statement of merger is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than ninety days after the date of filing;
- (d) A statement that the merger was approved by each domestic merging cooperative association, if any, in accordance with this section and sections 1308 through 1311 and 1313 of this act and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;
- (e) If the surviving cooperative association exists before the merger and is a domestic cooperative association, any amendment to its public organic record approved as part of the plan of merger;
- (f) If the surviving entity is created by the merger and is a domestic cooperative association, its public organic record, as an attachment;
- (g) If the surviving entity is a foreign cooperative association that is not a registered foreign cooperative association, a mailing address to which the secretary of state may send any process served on the secretary of state pursuant to section 1313(5) of this act.

(3) In addition to the requirements of subsection (2) of this section, a statement of merger may contain any other provision not prohibited by law.

(4) If the surviving entity is a domestic cooperative association, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(5) A plan of merger that is signed by all the merging cooperative associations and meets all the requirements of subsection (2) of this section may be delivered to the secretary of state for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this subsection, references in this subchapter to a statement of merger refer to the plan of merger filed under this subsection.

(6) A statement of merger is effective on the date and time of filing or the later date and time specified in the statement of merger.

(7) If the surviving entity is a domestic limited cooperative association, the merger becomes effective when the statement of merger is effective. If the surviving entity is a foreign cooperative association, the merger becomes effective on the later of:

- (a) The date and time provided by the organic law of the surviving cooperative association; or
- (b) When the statement is effective.

**NEW SECTION. Sec. 1313. EFFECT OF MERGER.** (1) When a merger under this section and sections 1308 through 1312 of this act becomes effective:

- (a) The surviving cooperative association continues or comes into existence;
- (b) Each merging cooperative association that is not the surviving cooperative association ceases to exist;

(c) All property of each merging cooperative association vests in the surviving cooperative association without transfer, reversion, or impairment;

(d) All debts, obligations, and other liabilities of each merging cooperative association are debts, obligations, and other liabilities of the surviving cooperative association;

(e) Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging cooperative association vest in the surviving cooperative association;

(f) If the surviving cooperative association exists before the merger:

(i) All its property continues to be vested in it without transfer, reversion, or impairment;

(ii) It remains subject to all its debts, obligations, and other liabilities; and

(iii) All its rights, privileges, immunities, powers, and purposes continue to be vested in it;

(g) The name of the surviving cooperative association may be substituted for the name of any merging cooperative association that is a party to any pending action or proceeding;

(h) If the surviving cooperative association exists before the merger:

(i) Its public organic record, if any, is amended to the extent provided in the statement of merger; and

(ii) Its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;

(i) If the surviving cooperative association is created by the merger, its private organic rules are effective and its public organic record is effective; and

(j) The interests in each merging cooperative association which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under the merging cooperative association's organic law.

(2) Except as otherwise provided in the organic law or organic rules of a merging cooperative association, a merger under this section and sections 1308 through 1312 of this act does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.

(3) When a merger under this section and sections 1308 through 1312 of this act becomes effective, a person that did not have interest holder liability with respect to any of the merging cooperative associations and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that are incurred after the merger becomes effective.

(4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging limited cooperative association with respect to which the person had interest holder liability is subject to the following rules:

(a) The merger does not discharge any interest holder liability under the organic law of the domestic merging cooperative association to the extent the interest holder liability was incurred before the merger became effective.

(b) The person does not have interest holder liability under the organic law of the domestic merging cooperative association for any debt, obligation, or other liability that is incurred after the merger becomes effective.

(c) The organic law of the domestic merging cooperative association continues to apply to the release, collection, or discharge of any interest holder liability preserved under (a) of this subsection as if the merger had not occurred.

(d) The person has whatever rights of contribution from any other person as are provided by law other than this subchapter or the organic rules of the domestic merging limited cooperative association with respect to any interest holder liability preserved under (a) of this subsection as if the merger had not occurred.

(5) When a merger under this section and sections 1308 through 1312 of this act becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging limited cooperative association in accordance with applicable law.

(6) When a merger under this section and sections 1308 through 1312 of this act becomes effective, the registration to do business in this state of any foreign merging cooperative association that is not the surviving entity is canceled.

**NEW SECTION. Sec. 1314. RELATIONSHIP OF PART TO OTHER LAWS.** (1) This subchapter does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this subchapter.

(2) A conversion effected under this subchapter may not create or impair a right, duty, or obligation of a person under the statutory law of this state relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, or converting cooperative association unless the approval of the plan is by a vote of the members or directors which would be sufficient to create or impair the right, duty, or obligation directly under the law.



**NEW SECTION. Sec. 1315.** CHARITABLE ASSETS. Property held for a charitable purpose under the law of this state by a domestic or foreign cooperative association immediately before a conversion or merger under this subchapter becomes effective may not, as a result of the conversion or merger, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the attorney general specifying the disposition of the property.

**NEW SECTION. Sec. 1316.** STATUS OF FILINGS. A filing under this subchapter executed by a domestic cooperative association becomes part of the public organic record of the cooperative association if the cooperative association's organic law provides that similar filings under that law become part of the public organic record of the cooperative association.

**NEW SECTION. Sec. 1317.** NONEXCLUSIVITY. The fact that a conversion or merger under this subchapter produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this subchapter.

**NEW SECTION. Sec. 1318.** REFERENCE TO EXTERNAL FACTS. A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the conversion or merger.

**NEW SECTION. Sec. 1319.** ALTERNATIVE MEANS OF APPROVAL OF CONVERSIONS OR MERGERS. Except as otherwise provided in the organic law or organic rules of a domestic cooperative association, approval of a conversion or merger under this subchapter by the affirmative vote or consent of all its interest holders satisfies the requirements of this subchapter for approval of the conversion or merger.

**NEW SECTION. Sec. 1320.** SUBJECTS COVERED OUTSIDE THIS PART. The following subjects are covered in whole or in part in chapter 23.95 RCW:

- (1) Delivery of record;
- (2) Filing with secretary of state;
- (3) Name of entity;
- (4) Registered agent of entity; and
- (5) Miscellaneous provisions, including reservation or power to amend or repeal and supplemental principles of law.

#### **PART 14**

#### **AMENDMENTS TO OTHER LAW**

**Sec. 1401.** RCW 23.95.105 and 2015 c 176 s 1102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise or as set forth in RCW 23.95.400 or 23.95.600.

- (1) "Annual report" means the report required by RCW 23.95.255.

(2) "Business corporation" means a domestic business corporation incorporated under or subject to Title 23B RCW or a foreign business corporation.

(3) "Commercial registered agent" means a person listed under RCW 23.95.420.

(4) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.

(5) "Electronic transmission" means an electronic communication:

(a) Not directly involving the physical transfer of a record in a tangible medium; and

(b) That may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(6) "Entity" means:

(a) A business corporation;

(b) A nonprofit corporation;

(c) A limited liability partnership;

(d) A limited partnership;

(e) A limited liability company; ~~((☞))~~

(f) A general cooperative association; or

(g) A limited cooperative association.

(7) "Entity filing" means a record delivered to the secretary of state for filing pursuant to this chapter.

(8) "Execute," "executes," or "executed" means:

(a) Signed with respect to a written record;

(b) Electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission; or

(c) With respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(9) "Filed record" means a record filed by the secretary of state pursuant to this chapter.

(10) "Foreign," with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other than this state.

(11) "General cooperative association" means a domestic general cooperative association formed under or subject to chapter 23.86 RCW.

(12) "Governor" means:

(a) A director of a business corporation;

(b) A director of a nonprofit corporation;

(c) A partner of a limited liability partnership;

(d) A general partner of a limited partnership;

(e) A manager of a manager-managed limited liability company;

(f) A member of a member-managed limited liability company;

(g) A director of a general cooperative association; ~~((☞))~~

(h) A director of a limited cooperative association; or

(i) Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(13) "Interest" means:

- (a) A share in a business corporation;
- (b) A membership in a nonprofit corporation;
- (c) A share in a nonprofit corporation formed under chapter 24.06 RCW;
- (d) A partnership interest in a limited liability partnership;
- (e) A partnership interest in a limited partnership;
- (f) A limited liability company interest; ~~((e))~~
- (g) A share or membership in a general cooperative association; or
- (h) A member's interest in a limited cooperative association.

(14) "Interest holder" means:

- (a) A shareholder of a business corporation;
- (b) A member of a nonprofit corporation;
- (c) A shareholder of a nonprofit corporation formed under chapter 24.06

RCW;

- (d) A partner of a limited liability partnership;
- (e) A general partner of a limited partnership;
- (f) A limited partner of a limited partnership;
- (g) A member of a limited liability company; ~~((e))~~
- (h) A shareholder or member of a general cooperative association; or
- (i) A member of a limited cooperative association.

(15) "Jurisdiction~~((f))~~," when used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(16) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(17) "Limited cooperative association" means a domestic limited cooperative association formed under or subject to chapter 23.--- RCW (the new chapter created in section 1505 of this act) or a foreign limited cooperative association.

(18) "Limited liability company" means a domestic limited liability company formed under or subject to chapter 25.15 RCW or a foreign limited liability company.

~~((48))~~ (19) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to chapter 25.10 RCW or a foreign limited liability limited partnership.

~~((49))~~ (20) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to chapter 25.05 RCW or a foreign limited liability partnership.

~~((20))~~ (21) "Limited partnership" means a domestic limited partnership formed under or subject to chapter 25.10 RCW or a foreign limited partnership. "Limited partnership" includes a limited liability limited partnership.

~~((21))~~ (22) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:

(a) An individual or domestic or foreign entity that serves in this state as the registered agent of an entity;

(b) An individual who holds the office or other position in an entity which is designated as the registered agent pursuant to RCW 23.95.415(1)(b)(ii); or

(c) A government, governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities, that serves as the registered agent of an entity.

~~((22))~~ (23) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to chapter 24.03 or 24.06 RCW or a foreign nonprofit corporation.

~~((23))~~ (24) "Nonregistered foreign entity" means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the secretary of state.

~~((24))~~ (25) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

~~((25))~~ (26) "Organic rules" means the public organic record and private organic rules of an entity.

~~((26))~~ (27) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~((27))~~ (28) "Principal office" means the principal executive office of an entity, whether or not the office is located in this state.

~~((28))~~ (29) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. "Private organic rules" includes:

(a) The bylaws of a business corporation and any agreement among shareholders pursuant to RCW 23B.07.320;

(b) The bylaws of a nonprofit corporation;

(c) The partnership agreement of a limited liability partnership;

(d) The partnership agreement of a limited partnership;

(e) The limited liability company agreement; ~~((and))~~

(f) The bylaws of a general cooperative association; and

(g) The bylaws of a limited cooperative association.

~~((29))~~ (30) "Proceeding" means civil suit and criminal, administrative, and investigatory action.

~~((30))~~ (31) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

~~((31))~~ (32) "Public organic record" means the record the filing of which by the secretary of state is required to form an entity and any amendment to or restatement of that record. The term includes:

(a) The articles of incorporation of a business corporation;

(b) The articles of incorporation of a nonprofit corporation;

(c) The certificate of limited partnership of a limited partnership;

(d) The certificate of formation of a limited liability company;

(e) The articles of incorporation of a general cooperative association;

~~((and))~~

(f) The articles of organization of a limited cooperative association; and

(g) The document under the laws of another jurisdiction that is equivalent to a document listed in this subsection.

~~((32))~~ (33) "Receipt," as used in this chapter, means actual receipt. "Receive" has a corresponding meaning.

~~((33))~~ (34) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

~~((34))~~ (35) "Registered agent" means an agent of an entity which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term includes a commercial registered agent and a noncommercial registered agent.

~~((35))~~ (36) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a certificate of registration filed by the secretary of state.

~~((36))~~ (37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~((37))~~ (38) "Transfer" includes:

- (a) An assignment;
- (b) A conveyance;
- (c) A sale;
- (d) A lease;
- (e) An encumbrance, including a mortgage or security interest;
- (f) A change of record owner of interest;
- (g) A gift; and
- (h) A transfer by operation of law.

~~((38))~~ (39) "Type of entity" means a generic form of entity:

- (a) Recognized at common law; or
- (b) Formed under an organic law, whether or not some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.

~~((39))~~ (40) "Writing" does not include an electronic transmission.

~~((40))~~ (41) "Written" means embodied in a tangible medium.

**Sec. 1402.** RCW 23.95.305 and 2015 c 176 s 1302 are each amended to read as follows:

(1)(a) The name of a business corporation:

(i)(A) Except in the case of a social purpose corporation, must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd.," or words or abbreviations of similar import in another language; or

(B) In the case of a social purpose corporation, must contain the words "social purpose corporation" or the abbreviation "SPC" or "S.P.C."; and

(ii) Must not contain any of the following words or phrases: "Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state.

(b) The name of a professional service corporation must contain either the words "professional service" or "professional corporation" or the abbreviation "P.S." or "P.C." The name may also contain either the words "corporation," "incorporated," "company," or "limited," or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd." The name of a professional service corporation organized to render dental services must contain the full names or surnames of all

shareholders and no other word than "chartered" or the words "professional services" or the abbreviation "P.S." or "P.C."

(2) The name of a nonprofit corporation:

(a) May include "club," "league," "association," "services," "committee," "fund," "society," "foundation," "guild," ". . . . . , a nonprofit corporation," ". . . . . , a nonprofit mutual corporation," or any name of like import;

(b) Except for nonprofit corporations formed prior to January 1, 1969, must not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof; and

(c) May only include the term "public benefit" or names of like import if the nonprofit corporation has been designated as a public benefit nonprofit corporation by the secretary of state in accordance with chapter 24.03 RCW.

(3) The name of a limited partnership may contain the name of any partner. The name of a partnership that is not a limited liability limited partnership must contain the words "limited partnership" or the abbreviation "LP" or "L.P." and may not contain the words "limited liability limited partnership" or the abbreviation "LLL" or "L.L.L.P." If the limited partnership is a limited liability limited partnership, the name must contain the words "limited liability limited partnership" or the abbreviation "LLL" or "L.L.L.P." and may not contain the abbreviation "LP" or "L.P."

(4) The name of a limited liability partnership must contain the words "limited liability partnership" or the abbreviation "LLP" or "L.L.P." If the name of a foreign limited liability partnership contains the words "registered limited liability partnership" or the abbreviation "R.L.L.P." or "RLLP," it may include those words or abbreviations in its foreign registration statement.

(5)(a) The name of a limited liability company:

(i) Must contain the words "limited liability company," the words "limited liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC"; and

(ii) May not contain any of the following words or phrases: "Cooperative," "partnership," "corporation," "incorporated," or the abbreviations "Corp.," "Ltd.," or "Inc.," or "LP," "L.P.," "LLP," "L.L.P.," "LLL," "L.L.L.P.," or any words or phrases prohibited by any statute of this state.

(b) The name of a professional limited liability company must contain either the words "professional limited liability company," or the words "professional limited liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC," provided that the name of a professional limited liability company organized to render dental services must contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or "PLLC."

(6) The name of a cooperative association organized under chapter 23.86 RCW may contain the words "corporation," "incorporated," or "limited," or the abbreviation "Corp.," "Inc.," or "Ltd."

(7) The name of a limited cooperative association must contain the phrase "limited cooperative association" or "limited cooperative" or the abbreviation "L.C.A." or "LCA." "Limited" may be abbreviated as "Ltd." "Cooperative" may be abbreviated as "Co-op." or "Coop." "Association" may be abbreviated as "Assoc." or "Assn."

**Sec. 1403.** RCW 23.86.030 and 2015 c 176 s 9103 are each amended to read as follows:

(1) The name of any association subject to this chapter must comply with Article 3 of chapter 23.95 RCW.

(2) No corporation or association organized or doing business in this state shall be entitled to use the term "cooperative" as a part of its corporate or other business name or title, unless it: (a) Is subject to the provisions of this chapter(§) or chapter 23.78, 23.--- (the new chapter created in section 1505 of this act), or 31.12 RCW; (b) is subject to the provisions of chapter 24.06 RCW and operating on a cooperative basis; (c) is, on July 23, 1989, an organization lawfully using the term "cooperative" as part of its corporate or other business name or title; or (d) is a nonprofit corporation or association the voting members of which are corporations or associations operating on a cooperative basis. Any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any member or any association subject to this chapter.

(3) A member of the board of directors or an officer of any association subject to this chapter shall have the same immunity from liability as is granted in RCW 4.24.264.

**NEW SECTION. Sec. 1404.** A new section is added to chapter 23.86 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a domestic association organized under this chapter may convert to a limited cooperative association pursuant to sections 1302 through 1314 of this act.

(2) This section does not apply to a domestic association organized for the purpose of generating, purchasing, selling, marketing, transmitting, or distributing electric energy.

**NEW SECTION. Sec. 1405.** A new section is added to chapter 24.06 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a domestic corporation organized under this chapter, and taking the election provided in RCW 24.06.032(1), may convert to a limited cooperative association pursuant to sections 1302 through 1314 of this act.

(2) This section does not apply to a domestic corporation organized for the purpose of generating, purchasing, selling, marketing, transmitting, or distributing electric energy.

## PART 15

### MISCELLANEOUS PROVISIONS

**NEW SECTION. Sec. 1501.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**NEW SECTION. Sec. 1502.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c) or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

**NEW SECTION. Sec. 1503. SAVINGS CLAUSE.** This act does not affect an action commenced, or proceeding brought, or right accrued before the effective date of this section.

**NEW SECTION. Sec. 1504. SEVERABILITY CLAUSE.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 1505.** Sections 101 through 1320 and 1501 through 1503 of this act constitute a new chapter in Title 23 RCW.

Passed by the Senate March 4, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 38

[Senate Bill 5032]

### MEDICARE SUPPLEMENTAL INSURANCE POLICIES--PLANS

AN ACT Relating to medicare supplemental insurance policies; and amending RCW 48.66.045 and 48.66.055.

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

**Sec. 1.** RCW 48.66.045 and 2010 c 27 s 3 are each amended to read as follows:

(1) Every issuer of a medicare supplement insurance policy or certificate providing coverage to a resident of this state issued on or after January 1, 1996, and before June 1, 2010, must:

(a) Unless otherwise provided for in RCW 48.66.055, issue coverage under its standardized benefit plans B, C, D, E, F, G, K, and L without evidence of insurability to any resident of this state who is eligible for both medicare hospital and physician services by reason of age or by reason of disability or end-stage renal disease, if the medicare supplement policy replaces another medicare supplement standardized benefit plan policy or certificate B, C, D, E, F, G, K, or L, or other more comprehensive coverage than the replacing policy; and

(b) Unless otherwise provided for in RCW 48.66.055, issue coverage under its standardized plans A, H, I, and J without evidence of insurability to any resident of this state who is eligible for both medicare hospital and physician services by reason of age or by reason of disability or end-stage renal disease, if the medicare supplement policy replaces another medicare supplement policy or certificate which is the same standardized plan as the replaced policy. After December 31, 2005, plans H, I, and J may be replaced only by the same plan if that plan has been modified to remove outpatient prescription drug coverage.

(2)(a) Unless otherwise provided for in RCW 48.66.055, every issuer of a medicare supplement insurance policy or certificate providing coverage to a resident of this state issued on or after June 1, 2010, must issue coverage under its standardized plans B, C, D, F, F with high deductible, G, G with high deductible, K, L, M, or N without evidence of insurability to any resident of this state who is eligible for both medicare hospital and physician services prior to January 1, 2020, by reason of age or by reason of disability or end-stage renal



disease, if the medicare supplement policy or certificate replaces another medicare supplement policy or certificate or other more comprehensive coverage; ~~(and)~~)

(b) Unless otherwise provided in RCW 48.66.055, every issuer of a medicare supplement insurance policy or certificate providing coverage to a resident of this state issued on or after January 1, 2020, must issue coverage under its standardized plans B, D, G, G with high deductible, K, L, M, or N without evidence of insurability to any resident of this state who is eligible for both medicare hospital and physician services on or after January 1, 2020, by reason of age, disability, or end-stage renal disease, if the medicare supplement policy or certificate replaces another medicare supplement policy or certificate or other more comprehensive coverage; and

(c) Unless otherwise provided for in RCW 48.66.055, issue coverage under its standardized plan A without evidence of insurability to any resident of this state who is eligible for both medicare hospital and physician services by reason of age or by reason of disability or end-stage renal disease, if the medicare supplement policy or certificate replaces another standardized plan A medicare supplement policy or certificate.

(3) Every issuer of a medicare supplement insurance policy or certificate providing coverage to a resident of this state issued on or after January 1, 1996, must set rates only on a community-rated basis. Premiums must be equal for all policyholders and certificate holders under a standardized medicare supplement benefit plan form, except that an issuer may vary premiums based on spousal discounts, frequency of payment, and method of payment including automatic deposit of premiums and may develop no more than two rating pools that distinguish between an insured's eligibility for medicare by reason of:

- (a) Age; or
- (b) Disability or end-stage renal disease.

**Sec. 2.** RCW 48.66.055 and 2008 c 217 s 64 are each amended to read as follows:

(1) Under this section, persons eligible for a medicare supplement policy or certificate are those individuals described in subsection (3) of this section who, subject to subsection (3)(b)(ii) of this section, apply to enroll under the policy not later than sixty-three days after the date of the termination of enrollment described in subsection (3) of this section, and who submit evidence of the date of termination or disenrollment, or medicare part D enrollment, with the application for a medicare supplement policy.

(2) With respect to eligible persons, an issuer may not deny or condition the issuance or effectiveness of a medicare supplement policy described in subsection (4) of this section that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a medicare supplement policy.

(3) "Eligible persons" means an individual that meets the requirements of (a), (b), (c), (d), (e), or (f) of this subsection, as follows:

(a) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare; and the

plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;

(b)(i) The individual is enrolled with a medicare advantage organization under a medicare advantage plan under part C of medicare, and any of the following circumstances apply, or the individual is sixty-five years of age or older and is enrolled with a program of all inclusive care for the elderly (PACE) provider under section 1894 of the social security act, and there are circumstances similar to those described in this subsection (3)(b) that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a medicare advantage plan:

(A) The certification of the organization or plan has been terminated;

(B) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides;

(C) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary of the United States department of health and human services, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal social security act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856 of the federal social security act), or the plan is terminated for all individuals within a residence area;

(D) The individual demonstrates, in accordance with guidelines established by the secretary of the United States department of health and human services, that:

(I) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

(II) The organization, an insurance producer, or other entity acting on the organization's behalf materially misrepresented the plan's provisions in marketing the plan to the individual; or

(E) The individual meets other exceptional conditions as the secretary of the United States department of health and human services may provide.

(ii)(A) An individual described in (b)(i) of this subsection may elect to apply (a) of this subsection by substituting, for the date of termination of enrollment, the date on which the individual was notified by the medicare advantage organization of the impending termination or discontinuance of the medicare advantage plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification.

(B) In the case of an individual making the election under (b)(ii)(A) of this subsection, the issuer involved shall accept the application of the individual submitted before the date of termination of enrollment, but the coverage under subsection (1) of this section is only effective upon termination of coverage under the medicare advantage plan involved;

(c)(i) The individual is enrolled with:

(A) An eligible organization under a contract under section 1876 (medicare risk or cost);

(B) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

(C) An organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan); or

(D) An organization under a medicare select policy; and

(ii) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under (b)(i) of this subsection;

(d) The individual is enrolled under a medicare supplement policy and the enrollment ceases because:

(i)(A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

(B) Of other involuntary termination of coverage or enrollment under the policy;

(ii) The issuer of the policy substantially violated a material provision of the policy; or

(iii) The issuer, an insurance producer, or other entity acting on the issuer's behalf materially misrepresented the policy's provisions in marketing the policy to the individual;

(e)(i) The individual was enrolled under a medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any medicare advantage organization under a medicare advantage plan under part C of medicare, any eligible organization under a contract under section 1876 (medicare risk or cost), any similar organization operating under demonstration project authority, any PACE program under section 1894 of the social security act or a medicare select policy; and

(ii) The subsequent enrollment under (e)(i) of this subsection is terminated by the enrollee during any period within the first twelve months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal social security act);

(f) The individual, upon first becoming eligible for benefits under part A of medicare at age sixty-five, enrolls in a medicare advantage plan under part C of medicare, or in a PACE program under section 1894, and disenrolls from the plan or program by not later than twelve months after the effective date of enrollment; or

(g) The individual enrolls in a medicare part D plan during the initial enrollment period and, at the time of enrollment in part D, was enrolled under a medicare supplement policy that covers outpatient prescription drugs, and the individual terminates enrollment in the medicare supplement policy and submits evidence of enrollment in medicare part D along with the application for a policy described in subsection (4)((~~+~~)) (a)(iv) of this section.

(4)(a) An eligible person under subsection (3) of this section is entitled to a medicare supplement policy as follows:

((~~+~~)) (i) A person eligible under subsection (3)(a), (b), (c), and (d) of this section is entitled to a medicare supplement policy that has a benefit package classified as plan A through F (including F with a high deductible), K, or L, offered by any issuer;

((~~+~~)(i)) (ii)(A) Subject to ((~~+~~)(ii)) (a)(ii)(B) of this subsection, a person eligible under subsection (3)(e) of this section is entitled to the same medicare

supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in (a)(i) of this subsection;

~~((#))~~ (B) After December 31, 2005, if the individual was most recently enrolled in a medicare supplement policy with an outpatient prescription drug benefit, a medicare supplement policy described in this subsection (4)~~((b)(#))~~ (a)(ii)(B) is:

~~((A))~~ (I) The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or

~~((B))~~ (II) At the election of the policyholder, an A, B, C, F (including F with a high deductible), K, or L policy that is offered by any issuer;

~~((c))~~ (iii) A person eligible under subsection (3)(f) of this section is entitled to any medicare supplement policy offered by any issuer; and

~~((d))~~ (iv) A person eligible under subsection (3)(g) of this section is entitled to a medicare supplement policy that has a benefit package classified as plan A, B, C, F (including F with a high deductible), K, or L and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's medicare supplement policy with outpatient prescription drug coverage.

(b) For purposes of this subsection (4), in the case of any individual newly eligible for medicare on or after January 1, 2020, any reference to a medicare supplement policy C or F, including F with high deductible, is deemed to be a reference to a medicare supplement policy D or G, including G with high deductible, respectively, that meets the requirements of this subsection.

(5)(a) At the time of an event described in subsection (3) of this section, and because of which an individual loses coverage or benefits due to the termination of a contract, agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, must notify the individual of his or her rights under this section, and of the obligations of issuers of medicare supplement policies under subsection (1) of this section. The notice must be communicated contemporaneously with the notification of termination.

(b) At the time of an event described in subsection (3) of this section, and because of which an individual ceases enrollment under a contract, agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, must notify the individual of his or her rights under this section, and of the obligations of issuers of medicare supplement policies under subsection (1) of this section. The notice must be communicated within ten working days of the issuer receiving notification of disenrollment.

(6) Guaranteed issue time periods:

(a) In the case of an individual described in subsection (3)(a) of this section, the guaranteed issue period begins on the later of: (i) The date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of a termination or cessation), or (ii) the date that the applicable coverage terminates or ceases, and ends sixty-three days thereafter;

(b) In the case of an individual described in subsection (3)(b), (c), (e), or (f) of this section whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three days after the date the applicable coverage is terminated;

(c) In the case of an individual described in subsection (3)(d)(i) of this section, the guaranteed issue period begins on the earlier of: (i) The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any, and (ii) the date that the applicable coverage is terminated, and ends on the date that is sixty-three days after the date the coverage is terminated;

(d) In the case of an individual described in subsection (3)(b), (d)(ii) and (iii), (e), or (f) of this section, who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty days before the effective date of the disenrollment and ends on the date that is sixty-three days after the effective date;

(e) In the case of an individual described in subsection (3)(g) of this section, the guaranteed issue period begins on the date the individual receives notice pursuant to section 1882(v)(2)(B) of the federal social security act from the medicare supplement issuer during the sixty-day period immediately preceding the initial part D enrollment period and ends on the date that is sixty-three days after the effective date of the individual's coverage under medicare part D; and

(f) In the case of an individual described in subsection (3) of this section but not described in the preceding provisions of this subsection, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three days after the effective date.

(7) In the case of an individual described in subsection (3)(e) of this section whose enrollment with an organization or provider described in subsection (3)(e)(i) of this section is involuntarily terminated within the first twelve months of enrollment, and who, without an intervening enrollment, enrolls with another organization or provider, the subsequent enrollment is an initial enrollment as described in subsection (3)(e) of this section.

(8) In the case of an individual described in subsection (3)(f) of this section whose enrollment with a plan or in a program described in subsection (3)(f) of this section is involuntarily terminated within the first twelve months of enrollment, and who, without an intervening enrollment, enrolls in another plan or program, the subsequent enrollment is an initial enrollment as described in subsection (3)(f) of this section.

(9) For purposes of subsection (3)(e) and (f) of this section, an enrollment of an individual with an organization or provider described in subsection (3)(e)(i) of this section, or with a plan or in a program described in subsection (3)(f) of this section is not an initial enrollment under this subsection after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan, or program.

Passed by the Senate February 20, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

CHAPTER 39

[Senate Bill 5083]

INDIAN TRIBES--ADMISSION OF RECORDS AND PROCEEDINGS AS EVIDENCE

AN ACT Relating to allowing certain records, documents, proceedings, and published laws of federally recognized Indian tribes to be admitted as evidence in courts of Washington state; and amending RCW 5.44.010, 5.44.040, and 5.44.050.

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

**Sec. 1.** RCW 5.44.010 and 1997 c 358 s 7 are each amended to read as follows:

The records and proceedings of any court of the United States, or any state or territory, ~~((shall be))~~ or any federally recognized Indian tribe, are admissible in evidence in all cases in this state when duly certified by the attestation of the clerk, prothonotary or other officer having charge of the records of such court, with the seal of such court annexed.

**Sec. 2.** RCW 5.44.040 and 1991 c 59 s 1 are each amended to read as follows:

Copies of all records and documents on record or on file in the offices of the various departments of the United States and of this state or any other state or territory of the United States or any federally recognized Indian tribe, when duly certified by the respective officers having by law the custody thereof, under their respective seals where such officers have official seals, ~~((shall))~~ must be admitted in evidence in the courts of this state.

**Sec. 3.** RCW 5.44.050 and Code 1881 s 435 are each amended to read as follows:

Printed copies of the statute laws of any state, territory, ~~((or))~~ foreign government, or federally recognized Indian tribe if purporting to have been published under the authority of the respective governments, or if commonly admitted and read as evidence in their courts, ~~((shall))~~ must be admitted in all courts in this state, and on all other occasions as presumptive evidence of such laws.

Passed by the Senate February 20, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

CHAPTER 40

[Senate Bill 5122]

WATER-SEWER DISTRICT COMMISSIONERS--INSURANCE COVERAGE

AN ACT Relating to insurance coverage for water-sewer district commissioners; and amending RCW 57.08.100.

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

**Sec. 1.** RCW 57.08.100 and 1996 c 230 s 316 are each amended to read as follows:

Subject to chapter 48.62 RCW, a district, by a majority vote of its board of commissioners, may enter into contracts to provide health care services and/or group insurance and/or term life insurance and/or social security insurance for

the benefit of its employees and may pay all or any part of the cost thereof. Any two or more districts, by a majority vote of their respective boards of commissioners, may, if deemed expedient, join in the procuring of such health care services and/or group insurance and/or term life insurance, and the board of commissioners of a participating district may by appropriate resolution authorize its respective district to pay all or any portion of the cost thereof.

A district (~~(with five thousand or more customers)~~) providing health, group, or life insurance to its employees may provide its commissioners with the same coverage. However, the per person amounts for such insurance paid by the district shall not exceed the per person amounts paid by the district for its employees.

Passed by the Senate February 20, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 41

[Senate Bill 5162]

### JURY SERVICE QUALIFICATIONS--CIVIL RIGHTS RESTORED

AN ACT Relating to qualifications for jury service; and amending RCW 2.36.010.

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

**Sec. 1.** RCW 2.36.010 and 2015 c 7 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise(~~((f))~~), the definitions in this section apply throughout this chapter.

(1) A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power—

(a) To present or indict a person for a public offense.

(b) To try a question of fact.

(2) "Court" when used without further qualification means any superior court or court of limited jurisdiction in the state of Washington.

(3) "Judge" means every judicial officer authorized to hold or preside over a court. For purposes of this chapter "judge" does not include court commissioners or referees.

(4) "Juror" means any person summoned for service on a petit jury, grand jury, or jury of inquest as defined in this chapter.

(5) "Grand jury" means those twelve persons impaneled by a superior court to hear, examine, and investigate evidence concerning criminal activity and corruption.

(6) "Petit jury" means a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.

(7) "Jury of inquest" means a body of persons six or fewer in number, but not fewer than four persons, summoned before the coroner or other ministerial officer, to inquire of particular facts.

(8) "Jury source list" means the list of all registered voters for any county, merged with a list of licensed drivers and identocard holders who reside in the county. The list shall specify each person's name and residence address and conform to the methodology and standards set pursuant to the provisions of RCW 2.36.054 or by supreme court rule. The list shall be filed with the superior court by the county auditor.

(9) "Master jury list" means the list of prospective jurors from which jurors summoned to serve will be randomly selected. The master jury list shall be either randomly selected from the jury source list or may be an exact duplicate of the jury source list.

(10) "Jury term" means a period of time of one or more days, not exceeding two weeks for counties with a jury source list that has at least seventy thousand names and one month for counties with a jury source list of less than seventy thousand names, during which summoned jurors must be available to report for juror service.

(11) "Juror service" means the period of time a juror is required to be present at the court facility. This period of time may not extend beyond the end of the jury term, and may not exceed one week for counties with a jury source list that has at least seventy thousand names, and two weeks for counties with a jury source list of less than seventy thousand names, except to complete a trial to which the juror was assigned during the service period.

(12) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

(13) "Civil rights restored" means a person's right to vote has been provisionally or permanently restored prior to reporting for jury service.

Passed by the Senate February 25, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 42

[Senate Bill 5177]

### CEMETERY DISTRICTS--WITHDRAWAL OF TERRITORY

AN ACT Relating to cemetery district withdrawal of territory; and amending RCW 68.54.130.

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

**Sec. 1.** RCW 68.54.130 and 2017 c 62 s 1 are each amended to read as follows:

(1) Territory within a cemetery district may be withdrawn from the district in the same manner provided by law for withdrawal of territory from water-sewer districts, as provided by chapter 57.28 RCW, except ((that no territory within a cemetery district may be withdrawn unless a special election is held and a majority of votes cast by qualified voters residing within the district approve the withdrawal. Agreement between the district board of commissioners and the county legislative authority on the findings of fact under RCW 57.28.080 does not preclude an election under this section.)) as provided otherwise in subsections (2) and (3) of this section.



(2) If a territory has qualified voters residing within it, then the territory may not be withdrawn from the cemetery district unless a special election is held and a majority of votes cast by qualified voters residing within the district approve the withdrawal. Agreement between the district board of commissioners and the county legislative authority on the findings of fact under RCW 57.28.080 does not preclude an election under this subsection.

(3) If a territory has no qualified voters residing within it, then no special election is required as applied to procedures for withdrawal of territory under this section. However, if withdrawal of such territory is commenced by the district board of commissioners as provided under RCW 57.28.035, then the territory may not be withdrawn from the cemetery district unless written approval is attained from the owners, according to the records of the county auditor or auditors, of not less than sixty percent of the area of land included in the resolution for withdrawal. The written approval must be attained within sixty days from the date of the final hearing of any county legislative authority on the resolution for withdrawal. Agreement between the district board of commissioners and the county legislative authority on the findings of fact under RCW 57.28.080 does not preclude the written approval requirement under this subsection.

Passed by the Senate February 6, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 43

[Senate Bill 5207]

### FELONY VOTING RIGHTS--NOTIFICATION BY DEPARTMENT OF CORRECTIONS

AN ACT Relating to notification of felony voting rights and restoration; and adding a new section to chapter 72.09 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 72.09 RCW to read as follows:

The department shall notify an inmate, in writing, of the process for provisional and permanent restoration of voting rights, as described in RCW 29A.08.520, prior to the termination of authority of the department over the inmate. The department shall also provide the inmate with:

(1) A voter registration form and written instructions for returning the form by mail; and

(2) Written information regarding registering to vote in person and electronically.

Passed by the Senate February 25, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 44

[Senate Bill 5230]

## MOTOR VEHICLES--VARIOUS PROVISIONS

AN ACT Relating to amending motor vehicle laws to align with federal definitions, make technical corrections, and move an effective date to meet a federal timeline; amending RCW 46.16A.010, 46.25.010, 46.17.350, 46.18.210, 46.55.065, and 46.76.040; amending 2018 c 49 s 5 (uncodified); reenacting and amending RCW 46.25.010; providing effective dates; and declaring an emergency.

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

**Sec. 1.** RCW 46.16A.010 and 2010 c 161 s 401 are each amended to read as follows:

For the purposes of this chapter unless the context clearly requires otherwise:

(1) "Commercial motor vehicle," for the purposes of requiring a department of transportation number, means the same as defined in RCW 46.25.010(6), or a motor vehicle used in commerce when the motor vehicle: (a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit or units of a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds (~~or more~~)); (b) has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or (c) is used in the transportation of hazardous materials, as defined in RCW 46.25.010(13);

(2) "Department of transportation number" means a department of transportation number from the federal motor carrier safety administration;

(3) "Interstate commercial motor vehicle" means a commercial vehicle that operates in more than one state;

(4) "Intrastate commercial motor vehicle" means a commercial vehicle that operates exclusively within the state of Washington;

(5) "Motor carrier" means a person or entity who has been issued a department of transportation number and who owns a commercial motor vehicle;

(6) "Registration year" means the effective period of a vehicle registration issued by the department. A registration year begins at 12:01 a.m. on the date of the calendar year designated by the department and ends at 12:00 a.m. the same day the following year unless otherwise specified;

(7) "Renewal notice" means the notice to renew a vehicle registration sent to the registered owner by the department.

**Sec. 2.** RCW 46.25.010 and 2017 c 334 s 4 and 2017 c 194 s 1 are each reenacted and amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a

clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit or units with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds (~~or more~~)), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15)(a) "Nondomiciled CLP or CDL" means a permit or license, respectively, issued under RCW 46.25.054 to a person who meets one of the following criteria:

(i) Is domiciled in a foreign country as provided in 49 C.F.R. Sec. 383.23(b)(1) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(ii) Is domiciled in another state as provided in 49 C.F.R. Sec. 383.23(b)(2) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(b) The definition in this subsection (15) applies exclusively to the use of the term in this chapter and is not to be applied in any other chapter of the Revised Code of Washington.

(16) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(17) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(18) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a personal electronic device, defined as a violation of RCW 46.61.672, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

(g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(20) "State" means a state of the United States and the District of Columbia.

(21) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(22) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(23) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on July 8, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL or CLP holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(24) "United States" means the fifty states and the District of Columbia.

(25) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**Sec. 3.** RCW 46.25.010 and 2018 c 49 s 4 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit or units with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds (~~or more~~)), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport sixteen or more passengers, including the driver;

or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15)(a) "Nondomiciled CLP or CDL" means a permit or license, respectively, issued under RCW 46.25.054 to a person who meets one of the following criteria:

(i) Is domiciled in a foreign country as provided in 49 C.F.R. Sec. 383.23(b)(1) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(ii) Is domiciled in another state as provided in 49 C.F.R. Sec. 383.23(b)(2) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(b) The definition in this subsection (15) applies exclusively to the use of the term in this chapter and is not to be applied in any other chapter of the Revised Code of Washington.

(16) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(17) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(18) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a personal electronic device, defined as a violation of RCW 46.61.672, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

(g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and



(h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(20) "State" means a state of the United States and the District of Columbia.

(21) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(22) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(23) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(d) "Excepted intrastate," which means the CDL or CLP holder wishes to maintain a CDL or CLP but not operate a commercial motor vehicle without changing his or her self-certification type.

(24) "United States" means the fifty states and the District of Columbia.

(25) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**Sec. 4.** RCW 46.17.350 and 2014 c 30 s 2 are each amended to read as follows:

(1) Before accepting an application for a vehicle registration, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant, unless specifically exempt, to pay the following vehicle license fee by vehicle type:

VEHICLE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(a) Auto stage, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(b) Camper	\$ 4.90	\$ 3.50	RCW 46.68.030
(c) Commercial trailer	\$ 34.00	<del>(\$ 30.00)</del> <u>\$ 34.00</u>	RCW 46.68.035
(d) For hire vehicle, six seats or less	\$ 30.00	\$ 30.00	RCW 46.68.030
(e) Mobile home (if registered)	\$ 30.00	\$ 30.00	RCW 46.68.030
(f) Moped	\$ 30.00	\$ 30.00	RCW 46.68.030
(g) Motor home	\$ 30.00	\$ 30.00	RCW 46.68.030
(h) Motorcycle	\$ 30.00	\$ 30.00	RCW 46.68.030
(i) Off-road vehicle	\$ 18.00	\$ 18.00	RCW 46.68.045
(j) Passenger car	\$ 30.00	\$ 30.00	RCW 46.68.030
(k) Private use single-axle trailer	\$ 15.00	\$ 15.00	RCW 46.68.035
(l) Snowmobile	\$ 50.00	\$ 50.00	RCW 46.68.350
(m) Snowmobile, vintage	\$ 12.00	\$ 12.00	RCW 46.68.350
(n) Sport utility vehicle	\$ 30.00	\$ 30.00	RCW 46.68.030
(o) Tow truck	\$ 30.00	\$ 30.00	RCW 46.68.030
(p) Trailer, over 2000 pounds	\$ 30.00	\$ 30.00	RCW 46.68.030
(q) Travel trailer	\$ 30.00	\$ 30.00	RCW 46.68.030
(r) Wheeled all-terrain vehicle, on-road use	\$ 12.00	\$ 12.00	RCW 46.09.540
(s) Wheeled all-terrain vehicle, off-road use	\$ 18.00	\$ 18.00	RCW 46.09.510

(2) The vehicle license fee required in subsection (1) of this section is in addition to the filing fee required under RCW 46.17.005, and any other fee or tax required by law.

**Sec. 5.** RCW 46.18.210 and 2010 c 161 s 612 are each amended to read as follows:

(1) A registered owner may apply to the department for special armed forces license plates for (~~(motor)~~) vehicles representing the following:

- (a) Air force;
- (b) Army;
- (c) Coast guard;
- (d) Marine corps;
- (e) National guard; or
- (f) Navy.

(2) Armed forces license plates may be purchased by:

- (a) Active duty military personnel;
- (b) Families of veterans and service members;
- (c) Members of the national guard;
- (d) Reservists; or
- (e) Veterans, as defined in RCW 41.04.007.

(3) A person who applies for special armed forces license plates shall provide:

- (a) DD-214 or discharge papers if the applicant is a veteran;
- (b) A military identification card or retired military identification card; or
- (c) A declaration of fact attesting to the applicant's eligibility as required under this section.

(4) For the purposes of this section:

(a) "Child" includes stepchild, adopted child, foster child, grandchild, or son or daughter-in-law.

(b) "Family" or "families" includes an individual's spouse, child, parent, sibling, aunt, uncle, or cousin.

(c) "Parent" includes stepparent, grandparent, or in-laws.

(d) "Sibling" includes brother, half brother, stepbrother, sister, half sister, stepsister, or brother or sister-in-law.

(5) Armed forces license plates are not free of charge to disabled veterans, former prisoners of war, or spouses or domestic partners of deceased former prisoners of war under RCW 46.18.235.

**Sec. 6.** RCW 46.55.065 and 2018 c 135 s 2 are each amended to read as follows:

(1) If a tow truck, the registered owner of which is a registered tow truck operator, is to conduct transporter business under chapter 46.76 RCW, the license plate that is required to be displayed under RCW 46.16A.030 must contain an indicator tab that the vehicle is licensed to perform transporter services. The fee for an original transporter's license plate indicator tab for a tow truck, the registered owner of which is a registered tow truck operator, is (~~(twenty-five)~~) two dollars. Vehicles that are used to conduct transporter business and are not owned by a registered tow truck operator must follow the requirements of chapter 46.76 RCW.

(2) If a tow truck, the registered owner of which is a registered tow truck operator, is used for a hulk hauler or scrap processor business under chapter 46.79 RCW, the license plate that is required under RCW 46.16A.030 must contain an indicator tab that the vehicle is licensed to perform hulk hauler or scrap processor purposes under the laws of the state of Washington. The fee for a

hulk hauler or scrap processor business license plate indicator tab is five dollars for the original tab and two dollars for each additional tab. Vehicles that are used to conduct hulk hauler or scrap processor business and are not owned by a registered tow truck operator must follow the requirements of chapter 46.79 RCW.

(3) If a tow truck, the registered owner of which is a registered tow truck operator, is used for a wrecker business under chapter 46.80 RCW, the license plate displayed that is required under RCW 46.16A.030 must contain an indicator tab that the vehicle is licensed to perform wrecker services. The fee for a wrecker license plate indicator tab is five dollars for the original tab and two dollars for each additional tab. Vehicles that are used to conduct wrecker business and are not owned by a registered tow truck operator must follow the requirements of chapter 46.80 RCW.

(4)(a) The license plate indicator tabs must:

(i) Affix to the license plate required to be displayed under RCW 46.16A.030;

(ii) Clearly identify the business purpose of the licensed vehicle;

(iii) Use some combination of letters and numbers to indicate a vehicle is licensed to conduct transporter business under chapter 46.76 RCW, hulk hauler or scrap processor business under chapter 46.79 RCW, or wrecker business under chapter 46.80 RCW; and

(iv) Be approved by the department.

(b) All other requirements concerning registration and display of plates as required under chapter 46.16A RCW may not conflict with this section.

(5) Chapter 135, Laws of 2018 does not allow for the use of indicator tabs, authorized in this section, on a special or personalized license plate authorized in chapter 46.18 RCW.

**Sec. 7.** RCW 46.76.040 and 2018 c 16 s 2 are each amended to read as follows:

The fee for an original transporter's license is twenty-five dollars. Transporter license number plates bearing an appropriate symbol and serial number or an indicator tab pursuant to RCW 46.55.065 must be attached to all vehicles being delivered or evaluated in the conduct of the business licensed under this chapter. The plates or indicator tab may be obtained for a fee of two dollars for each set.

**Sec. 8.** 2018 c 49 s 5 (uncodified) is amended to read as follows:

This act takes effect (~~April 30, 2019~~) June 1, 2020.

**NEW SECTION. Sec. 9.** Sections 6 and 7 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 June 1, 2019.

**NEW SECTION. Sec. 10.** Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 30, 2019.

Passed by the Senate February 6, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 45

[Substitute Senate Bill 5265]

### VOLUNTEERISM IN STATE GOVERNMENT--STUDY

AN ACT Relating to encouraging the role of volunteerism within state government; creating new sections; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** The legislature finds that volunteers play an important role in enriching our communities. This is true not only for society at large, but also within state government specifically. Volunteering not only produces positive results for the recipients of the efforts, but for the volunteers themselves, who are rewarded with new life experiences and a greater connection to their community.

The legislature further finds while many individuals from the baby boomer generation are leaving the workforce, many are still seeking way ways to contribute and make a difference in their communities, and volunteering provides one such pathway.

Therefore, the legislature intends that a thorough review be conducted that examines the existing role of volunteering within state government and considers ways to increase and expand volunteer opportunities.

**NEW SECTION. Sec. 2.** (1) Serve Washington must conduct a study to review volunteer opportunities within state government. The study must include the Washington state parks and recreation commission, the department of fish and wildlife, the Washington military department, the Washington state office of the insurance commissioner, state mental hospital programs, state developmental disability programs, state litter clean-up programs, and may include any other agency or program identified by serve Washington. The study must:

(a) Evaluate volunteer utilization, including any need for additional volunteers in existing programs;

(b) Provide the costs and benefits of volunteer programs;

(c) Identify any barriers to volunteerism;

(d) Provide recommendations for ways to remove barriers to volunteerism;

(e) Provide recommendations for how the state can support agencies in growing volunteer programs that will supplement rather than replace or reduce staff or services;

(f) Identify any additional programs that could accommodate volunteers in the future; and

(g) Recommend methods for strengthening connections between state agency volunteer programs and the state's volunteer infrastructure to support volunteer recruitment, volunteer engagement, and volunteer program training needs to improve program outcomes.

(2) By July 1, 2020, serve Washington must submit a report that presents information and findings from the review conducted under this section to the appropriate committees of the senate and house of representatives.

(3) This section expires July 1, 2020.

Passed by the Senate March 12, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 46

[Substitute Senate Bill 5333]

### UNIFORM PARENTAGE ACT--VARIOUS PROVISIONS

AN ACT Relating to making changes related to the uniform parentage act for access to court records, entry of protective orders by the court, use of mandatory forms, criteria for notice of a proceeding to adjudicate parentage, compliance with regulations of the food and drug administration, enacting a repealed section of chapter 26.26 RCW, clarifying the crimes included in sexual assault for purposes of preclusion of parentage, and correcting citations and terminology; amending RCW 26.26A.500, 26.26A.470, 26.26A.410, 26.26A.810, 26.26A.820, 26.26A.825, 26.26A.465, 4.16.360, 5.44.140, 9.41.040, 9.41.173, 9.41.800, 9.94A.030, 10.14.080, 10.14.200, 10.99.020, 13.04.030, 13.34.155, 13.38.040, 26.09.030, 26.09.191, 26.09.405, 26.09.510, 26.12.802, 26.18.010, 26.18.220, 26.23.050, 26.26B.010, 26.26B.020, 26.26B.040, 26.26B.050, 26.26B.070, 26.26B.080, 26.26B.100, 26.33.110, 26.50.025, 26.50.035, 26.50.060, 26.50.110, 26.50.160, 36.28A.410, 59.18.575, 74.20.040, 74.20.225, 74.20.310, 74.20.350, 74.20.360, 74.20A.030, 74.20A.055, and 74.20A.056; reenacting and amending RCW 9.41.070, 9.94A.411, 9.94A.515, 9.96.060, 10.31.100, 13.34.030, 26.33.020, 72.09.712, 72.09.714, and 74.13.031; adding a new section to chapter 26.26A RCW; and adding a new section to chapter 26.26B RCW.

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

#### PART 1

### ACCESS TO COURT RECORDS, ENTRY OF PROTECTIVE ORDERS, USE OF MANDATORY FORMS, AND CRITERIA FOR NOTICE OF A PROCEEDING TO ADJUDICATE PARENTAGE

**Sec. 1001.** RCW 26.26A.500 and 2018 c 6 s 520 are each amended to read as follows:

(1) On request of a party and for good cause, the court may close a proceeding under RCW 26.26A.400 through 26.26A.515 to the public.

(2) A final order in a proceeding under RCW 26.26A.400 through 26.26A.515 is available for public inspection. (~~Other papers and records are available for public inspection only with the consent of the parties or by court order.~~) Except as provided by applicable court rules, records entered after the entry of a final order determining parentage in a proceeding under this chapter are publicly accessible.

**Sec. 1002.** RCW 26.26A.470 and 2018 c 6 s 515 are each amended to read as follows:

(1) In a proceeding under RCW 26.26A.400 through 26.26A.515, the court may issue a temporary order for child support if the order is consistent with law of this state other than this chapter and the individual ordered to pay support is:

- (a) A presumed parent of the child;
- (b) Petitioning to be adjudicated a parent;
- (c) Identified as a genetic parent through genetic testing under RCW 26.26A.325;
- (d) An alleged genetic parent who has declined to submit to genetic testing;
- (e) Shown by clear and convincing evidence to be a parent of the child; or
- (f) A parent under this chapter.

(2) A temporary order may include a provision for parenting time and visitation under law of this state other than this chapter.

(3) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

(a) Molesting or disturbing the peace of another party;

(b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(4) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(5) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(7) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence information system.

(8) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(9) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such

terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

(12) Any party may request the court to issue any order referenced by RCW 9.41.800.

NEW SECTION. Sec. 1003. A new section is added to chapter 26.26A RCW to read as follows:

(1) Effective January 1, 2020, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The administrative office of the courts shall develop and approve standard court forms and format rules for mandatory use by litigants in all actions commenced under this chapter effective January 1, 2020. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

**Sec. 1004.** RCW 26.26A.410 and 2018 c 6 s 503 are each amended to read as follows:

(1) The petitioner shall give notice of a proceeding to adjudicate parentage to the following individuals:

(a) The woman who gave birth to the child, unless a court has adjudicated that she is not a parent;

(b) An individual who is a parent of the child under this chapter;

(c) A presumed, acknowledged, or adjudicated parent of the child; and

(d) An individual whose parentage of the child is to be adjudicated.

(2) An individual entitled to notice under subsection (1) of this section has a right to intervene in the proceeding.



(3) Lack of notice required by subsection (1) of this section does not render a judgment void. Lack of notice does not preclude an individual entitled to notice under subsection (1) of this section from bringing a proceeding under RCW 26.26A.450(2).

(4) Notice must be by service of the summons and complaint on all parties entitled to receive notice under subsection (1) of this section.

## PART 2

### COMPLIANCE WITH FOOD AND DRUG ADMINISTRATION REGULATIONS

**Sec. 2001.** RCW 26.26A.810 and 2018 c 6 s 803 are each amended to read as follows:

(1) A gamete bank or fertility clinic licensed in this state shall collect from a donor the donor's identifying information and medical history at the time of the donation.

~~((If the))~~ (2) A gamete bank or fertility clinic ((sends the)) licensed in this state which receives gametes of a donor ((to)) collected by another gamete bank or fertility clinic ((, the sending gamete bank or fertility clinic shall forward any identifying information and medical history of the donor, including the donor's signed declaration under RCW 26.26A.815 regarding identity disclosure, to the receiving gamete bank or fertility clinic. A receiving gamete bank or fertility clinic licensed in this state)) shall collect ((and retain the information about the donor and each sending)) the name, address, telephone number, and email address of the gamete bank or fertility clinic from which it received the gametes.

(3) A gamete bank or fertility clinic licensed in this state shall disclose the information collected under subsections (1) and (2) of this section as provided under RCW 26.26A.820.

**Sec. 2002.** RCW 26.26A.820 and 2018 c 6 s 805 are each amended to read as follows:

(1) On request of a child conceived by assisted reproduction who attains eighteen years of age, a gamete bank or fertility clinic licensed in this state which collected ~~((, stored, or released for use))~~ the gametes used in the assisted reproduction shall make a good faith effort to provide the child with identifying information of the donor who provided the gametes, unless the donor signed and did not withdraw a declaration under RCW 26.26A.815(2)(b). If the donor signed and did not withdraw the declaration, the gamete bank or fertility clinic shall make a good faith effort to notify the donor, who may elect under RCW 26.26A.815(3) to withdraw the donor's declaration.

(2) Regardless whether a donor signed a declaration under RCW 26.26A.815(2)(b), on request by a child conceived by assisted reproduction who attains eighteen years of age, or, if the child is a minor, by a parent or guardian of the child, a gamete bank or fertility clinic licensed in this state which collected the gametes used in the assisted reproduction shall make a good faith effort to provide the child or, if the child is a minor, the parent or guardian of the child, access to nonidentifying medical history of the donor.

(3) On request of a child conceived by assisted reproduction who attains eighteen years of age, a gamete bank or fertility clinic licensed in this state which received the gametes used in the assisted reproduction from another gamete bank or fertility clinic shall disclose the name, address, telephone

number, and email address of the gamete bank or fertility clinic from which it received the gametes.

**Sec. 2003.** RCW 26.26A.825 and 2018 c 6 s 806 are each amended to read as follows:

(1) A gamete bank or fertility clinic licensed in this state which collects(~~(; stores, or releases)~~) gametes for use in assisted reproduction shall (~~(collect and)~~) maintain identifying information and medical history about each gamete donor. The gamete bank or fertility clinic shall (~~(collect and)~~) maintain records of gamete screening and testing and comply with reporting requirements, in accordance with federal law and applicable law of this state other than this chapter.

(2) A gamete bank or fertility clinic licensed in this state that receives gametes from another gamete bank or fertility clinic shall maintain the name, address, and telephone number of the gamete bank or fertility clinic from which it received the gametes.

### PART 3

#### ENACTING A REPEALED SECTION OF CHAPTER 26.26 RCW

NEW SECTION. **Sec. 3001.** A new section is added to chapter 26.26B RCW to read as follows:

(1) After the period for rescission of an acknowledgment of parentage provided in RCW 26.26A.235 has passed, a parent executing an acknowledgment of parentage of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health care coverage under RCW 26.09.105.

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be titled "In re the parenting and support of..."

(3) Before the period for a challenge to the acknowledgment or denial of parentage has elapsed under RCW 26.26A.240, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No person other than a person who executed the acknowledgment of parentage is a parent of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another person is adjudicated the child's parent; and (c) the petitioner has provided notice of the proceeding to any other persons who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of parentage under RCW 26.26A.240 and 26.26A.445. A copy of the acknowledgment of parentage or the birth certificate issued by the state in which the child was born must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion.

## PART 4

## CLARIFYING THE CRIMES INCLUDED IN SEXUAL ASSAULT FOR PURPOSES OF PRECLUSION OF PARENTAGE

**Sec. 4001.** RCW 26.26A.465 and 2018 c 6 s 514 are each amended to read as follows:

(1) For the purposes of this section, "sexual assault" means nonconsensual sexual penetration that results in pregnancy.

(2) In a proceeding in which a parent alleges that a person committed a sexual assault that resulted in the parent becoming pregnant and subsequently giving birth to a child, the parent may seek to preclude the person from establishing or maintaining the person's parentage of the child. A parent who alleges that a child was born as a result of sexual assault may also seek additional relief as described in this section.

(3) This section does not apply if(=

(+)) the person described in subsection (2) of this section has previously been adjudicated in a proceeding brought under RCW 26.26A.400 to be a parent of the child, except as may be specifically permitted under subsection (4) of this section.

(4) Unless RCW 26.26A.240 or 26.26A.430 applies, a parent must file a pleading making an allegation under subsection (2) of this section not later than four years after the birth of the child, except that for a period of one year after January 1, 2019, a court may waive the time bar in cases in which a presumed, acknowledged, or adjudicated parent was found in a criminal or separate civil proceeding to have committed a sexual assault against the parent alleging that the child was born as a result of the sexual assault.

(5) If a parent makes an allegation under subsection (2) of this section and subsection (3) of this section does not apply, the court must conduct a fact-finding hearing on the allegation.

(a) The court may not enter any temporary orders providing residential time or decision making to the alleged perpetrator prior to the fact-finding hearing on the sexual assault allegation unless both of the following criteria are satisfied: (i) The alleged perpetrator has a bonded and dependent relationship with the child that is parental in nature; and (ii) the court specifically finds that it would be in the best interest of the child if such temporary orders are entered.

(b) Prior to the fact-finding hearing, the court may order genetic testing to determine whether the alleged perpetrator is biologically related to the child. If genetic testing reveals that the alleged perpetrator is not biologically related to the child, the fact-finding hearing must be stricken.

(c) Fourteen days prior to the fact-finding hearing, the parent alleging that the child was born as a result of a sexual assault shall submit affidavits setting forth facts supporting the allegation and shall give notice, together with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits. Opposing affidavits must be submitted and served to other parties to the proceeding five days prior to the fact-finding hearing.

(d) The court shall determine on the record whether affidavits and documents submitted for the fact-finding hearing should be sealed.

(6) An allegation under subsection (2) of this section may be proved by:

(a) Evidence that the person was convicted of or pleaded guilty to a sexual assault under RCW 9A.44.040, 9A.44.050, or 9A.44.060, or a comparable crime of sexual assault ((~~the~~)), including child rape of any degree, in this state or any other jurisdiction, against the child's parent and the child was born within three hundred twenty days after the sexual assault; or

(b) Clear, cogent, and convincing evidence that the person committed sexual assault, as defined in this section, against the child's parent and the child was born within three hundred twenty days after the sexual assault.

(7) Subject to subsections (1) through (5) of this section, if the court determines that an allegation has been proved under subsection (6) of this section at the fact-finding hearing or after a bench trial, the court shall:

(a) Adjudicate that the person described in subsection (2) of this section is not a parent of the child, has no right to residential time or decision-making responsibilities for the child, has no right to inheritance from the child, and has no right to notification of, or standing to object to, the adoption of the child. If the parent who was the victim of the sexual assault expressly consents in writing for the court to decline to enter one or more of these restrictions or limitations, the court may do so;

(b) Require the state registrar of vital statistics to amend the birth record if requested by the parent and the court determines that the amendment is in the best interest of the child; and

(c) Require the person pay to child support, birth-related costs, or both, unless the parent requests otherwise and the court determines that granting the request is in the best interest of the child.

(8) The child's parent or guardian may decline an order for child support or birth-related costs. If the child's parent or guardian declines an order for child support, and is either currently receiving public assistance or later applies for it for the child born as a result of the sexual assault, support enforcement agencies as defined in this chapter shall not file administrative or court proceedings to establish or collect child support, including medical support, from the person described in subsection (2) of this section.

(9) If the court enters an order under subsection (8) of this section providing that no child support obligation may be established or collected from the person described in subsection (2) of this section, the court shall forward a copy of the order to the Washington state support registry.

(10) The court may order an award of attorneys' fees under this section on the same basis as attorneys' fees are awarded under RCW 26.09.140.

(11) Any party may move to close the fact-finding hearing and any related proceedings under this section to the public. If no party files such a motion, the court shall determine on its own initiative whether the fact-finding hearing and any related proceedings under this section should be closed to the public. Upon finding good cause for closing the proceeding, and if consistent with Article I, section 10 of the state Constitution, the court may:

(a) Restrict admission to only those persons whom the court finds to have a direct interest in the case or in the work of the court, including witnesses deemed necessary to the disposition of the case; and

(b) Restrict persons who are admitted from disclosing any information obtained at the hearing that would identify the parties involved or the child.

**PART 5**  
**CORRECTING CITATIONS AND TERMINOLOGY**

**Sec. 5001.** RCW 4.16.360 and 1983 1st ex.s. c 41 s 13 are each amended to read as follows:

This chapter does not limit the time in which an action for determination of ~~((paternity))~~ parentage may be brought under chapter ~~((26-26))~~ 26.26A or 26.26B RCW.

**Sec. 5002.** RCW 5.44.140 and 2002 c 302 s 701 are each amended to read as follows:

In any proceeding regarding the determination of a family relationship, including but not limited to the parent and child relationship and the marriage relationship, a determination of family relationships regarding any person or persons who immigrated to the United States from a foreign country which was made or accepted by the United States ~~((immigration and naturalization service))~~ citizenship and immigration services at the time of that person or persons' entry into the United States creates a rebuttable presumption that the determination is valid and that the family relationship under foreign law is as made or accepted at the time of entry. Except as provided in RCW ~~((26-26.116(2)))~~ 26.26A.115(2), the presumption may be overcome by a preponderance of evidence showing that a living person other than the person named by the United States ~~((immigration and naturalization service))~~ citizenship and immigration services is in the relationship in question.

**Sec. 5003.** RCW 9.41.040 and 2018 c 234 s 1 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense as defined in this chapter.

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, has in his or her possession, or has in his or her control any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section, or any of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

(ii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of harassment when committed by one family or household member against another, committed on or after June 7, 2018;

(iii) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that:

(A) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(B) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(I) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(II) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury;

(iv) After having previously been involuntarily committed for mental health treatment under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(v) If the person is under eighteen years of age, except as provided in RCW 9.41.042; and/or

(vi) If the person is free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010.

(b) (a)(iii) of this subsection does not apply to a sexual assault protection order under chapter 7.90 RCW if the order has been modified pursuant to RCW 7.90.170 to remove any restrictions on firearm purchase, transfer, or possession.

(c) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted," whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted, or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state. A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4)(a) Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who

received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least twenty years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:

(i) Under RCW 9.41.047; and/or

(ii)(A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or

(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.

(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection (4) only at:

(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or

(ii) The superior court in the county in which the petitioner resides.

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) For purposes of this section, "intimate partner" includes: A spouse, a domestic partner, a former spouse, a former domestic partner, a person with whom the restrained person has a child in common, or a person with whom the restrained person has cohabitated or is cohabitating as part of a dating relationship.

**Sec. 5004.** RCW 9.41.070 and 2018 c 226 s 2 and 2018 c 201 s 6002 are each reenacted and amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045, or is prohibited from possessing a firearm under federal law;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to chapter~~(\*)~~ 7.90, 7.92, or 7.94 RCW, or RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130))~~ 26.26B.020, 26.50.060, 26.50.070, or ~~((26.26.590))~~ 26.26A.470;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2)(a) The issuing authority shall conduct a check through the national instant criminal background check system, the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from possessing a firearm under federal law, and therefore ineligible for a concealed pistol license.



(b) The issuing authority shall deny a permit to anyone who is found to be prohibited from possessing a firearm under federal or state law.

(c) This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, email address at the option of the applicant, date and place of birth, race, gender, description, a complete set of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include a complete set of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

**CAUTION:** Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The application shall contain questions about the applicant's eligibility under RCW 9.41.040 and federal law to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. If the applicant is not a United States citizen, the applicant must provide the applicant's country of citizenship, United States issued alien number or admission number, and the basis on which the applicant claims to be exempt from federal prohibitions on firearm possession by aliens. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall, if applicable, meet the additional requirements of RCW 9.41.173 and produce proof of compliance with RCW 9.41.173 upon application. The license may be in triplicate or in a form to be prescribed by the department of licensing.

A photograph of the applicant may be required as part of the application and printed on the face of the license.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the federal bureau of investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;
- (c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;
- (d) Two dollars and sixteen cents to the firearms range account in the general fund; and
- (e) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;
- (c) Two dollars and sixteen cents to the firearms range account in the general fund; and
- (d) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9)(a) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

- (i) Three dollars shall be deposited in the state wildlife account and used exclusively first for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. The pamphlet shall be given to each applicant for a license; and
- (ii) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(b) Beginning with concealed pistol licenses that expire on or after August 1, 2018, the department of licensing shall mail a renewal notice approximately ninety days before the license expiration date to the licensee at the address listed on the concealed pistol license application, or to the licensee's new address if the licensee has notified the department of licensing of a change of address. Alternatively, if the licensee provides an email address at the time of license application, the department of licensing may send the renewal notice to the licensee's email address. The notice must contain the date the concealed pistol license will expire, the amount of renewal fee, the penalty for late renewal, and instructions on how to renew the license.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

(14) Any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment, reassignment, or deployment for out-of-state military service may renew his or her license within ninety days after the person returns to this state from out-of-state military service, if the person provides the following to the issuing authority no later than ninety days after the person's date of discharge or assignment, reassignment, or deployment back to this state: (a) A copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service, and (b) if appropriate, a copy of the person's discharge or amended or subsequent assignment, reassignment, or deployment order back to this state. A license so renewed under this subsection (14) shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license under this subsection (14) shall pay only the renewal fee specified in subsection (6) of this section and shall not be required to pay a late renewal penalty in addition to the renewal fee.

**Sec. 5005.** RCW 9.41.173 and 2018 c 201 s 6006 are each amended to read as follows:

(1) In order to obtain an alien firearm license, a nonimmigrant alien residing in Washington must apply to the sheriff of the county in which he or she resides.

(2) The sheriff of the county shall within sixty days after the filing of an application of a nonimmigrant alien residing in the state of Washington, issue an alien firearm license to such person to carry or possess a firearm for the purposes of hunting and sport shooting. The license shall be good for two years. The issuing authority shall not refuse to accept completed applications for alien firearm licenses during regular business hours. An application for a license may not be denied, unless the applicant's alien firearm license is in a revoked status, or the applicant:

(a) Is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) Is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020, 26.50.060, 26.50.070, or (~~26.26.590~~) 26.26A.470;

(c) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense; or

(d) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor.

No license application shall be granted to a nonimmigrant alien convicted of a felony unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or unless RCW 9.41.040 (3) or (4) applies.

(3) The sheriff shall check with the national crime information center, the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, a complete set of fingerprints, and signature of the applicant, a copy of the applicant's passport and visa showing the applicant is in the country legally, and a valid Washington hunting license or documentation that the applicant is a member of a sport shooting club.

A signed application for an alien firearm license shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for an alien firearm license to an inquiring court or law enforcement agency.

The application for an original license shall include a complete set of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by

federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a firearm. The nonimmigrant alien applicant shall be required to produce a passport and visa as evidence of being in the country legally.

The license may be in triplicate or in a form to be prescribed by the department of licensing. The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an online format, all information received under this section.

(5) The sheriff has the authority to collect a nonrefundable fee, paid upon application, for the two-year license. The fee shall be fifty dollars plus additional charges imposed by the Washington state patrol and the federal bureau of investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license. The fee shall be retained by the sheriff.

(6) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the sheriff.

(7) A political subdivision of the state shall not modify the requirements of this section, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(8) A person who knowingly makes a false statement regarding citizenship or identity on an application for an alien firearm license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the alien firearm license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for an alien firearm license.

**Sec. 5006.** RCW 9.41.800 and 2014 c 111 s 2 are each amended to read as follows:

(1) Any court when entering an order authorized under chapter 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020, 26.50.060, 26.50.070, or (~~26.26.590~~) 26.26A.470 shall, upon a showing by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender any concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(2) Any court when entering an order authorized under chapter 7.92 RCW, RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130))~~ 26.26B.020, 26.50.060, 26.50.070, or ~~((26.26.590))~~ 26.26A.470 may, upon a showing by a preponderance of the evidence but not by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender a concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) During any period of time that the person is subject to a court order issued under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.09, 26.10, ~~((26.26))~~ 26.26A, 26.26B, or 26.50 RCW that:

(a) Was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;

(b) Restrains the person from harassing, stalking, or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(c)(i) Includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; and

(ii) By its terms, explicitly prohibits the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury, the court shall:

(A) Require the party to surrender any firearm or other dangerous weapon;

(B) Require the party to surrender a concealed pistol license issued under RCW 9.41.070;

(C) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon; and

(D) Prohibit the party from obtaining or possessing a concealed pistol license.

(4) The court may order temporary surrender of a firearm or other dangerous weapon without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for response has elapsed.

(5) In addition to the provisions of subsections (1), (2), and (4) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(6) The requirements of subsections (1), (2), and (5) of this section may be for a period of time less than the duration of the order.

(7) The court may require the party to surrender any firearm or other dangerous weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the sheriff of the county having jurisdiction of the proceeding, the chief of police of the municipality having jurisdiction, or to the restrained or enjoined party's counsel or to any person designated by the court.

**Sec. 5007.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.



(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return

from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

(w) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation

must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

- (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
- (xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);
- (xix) Extortion 1 (RCW 9A.56.120);
- (xx) Extortion 2 (RCW 9A.56.130);
- (xxi) Intimidating a Witness (RCW 9A.72.110);
- (xxii) Tampering with a Witness (RCW 9A.72.120);
- (xxiii) Reckless Endangerment (RCW 9A.36.050);
- (xxiv) Coercion (RCW 9A.36.070);
- (xxv) Harassment (RCW 9A.46.020); or
- (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;
- (vii) Rape in the first degree;
- (viii) Assault of a child in the first degree; or
- (ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training,



life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 5008.** RCW 9.94A.411 and 2017 c 272 s 2 and 2017 c 266 s 5 are each reenacted and amended to read as follows:

(1) Decision not to prosecute.

**STANDARD:** A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

**GUIDELINE/COMMENTARY:**

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) **Contrary to Legislative Intent** - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) **Antiquated Statute** - It may be proper to decline to charge where the statute in question is antiquated in that:

- (i) It has not been enforced for many years; and
- (ii) Most members of society act as if it were no longer in existence; and
- (iii) It serves no deterrent or protective purpose in today's society; and
- (iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) **De Minimis Violation** - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) **Confinement on Other Charges** - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) **Pending Conviction on Another Charge** - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

#### Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

#### (2) Decision to prosecute.

##### (a) STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.670.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

### CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

#### CRIMES AGAINST PERSONS

Aggravated Murder (RCW 10.95.020)

1st Degree Murder (RCW 9A.32.030)

2nd Degree Murder (RCW 9A.32.050)  
1st Degree Manslaughter (RCW 9A.32.060)  
2nd Degree Manslaughter (RCW 9A.32.070)  
1st Degree Kidnapping (RCW 9A.40.020)  
2nd Degree Kidnapping (RCW 9A.40.030)  
1st Degree Assault (RCW 9A.36.011)  
2nd Degree Assault (RCW 9A.36.021)  
3rd Degree Assault (RCW 9A.36.031)  
4th Degree Assault (if a violation of RCW 9A.36.041(3))  
1st Degree Assault of a Child (RCW 9A.36.120)  
2nd Degree Assault of a Child (RCW 9A.36.130)  
3rd Degree Assault of a Child (RCW 9A.36.140)  
1st Degree Rape (RCW 9A.44.040)  
2nd Degree Rape (RCW 9A.44.050)  
3rd Degree Rape (RCW 9A.44.060)  
1st Degree Rape of a Child (RCW 9A.44.073)  
2nd Degree Rape of a Child (RCW 9A.44.076)  
3rd Degree Rape of a Child (RCW 9A.44.079)  
1st Degree Robbery (RCW 9A.56.200)  
2nd Degree Robbery (RCW 9A.56.210)  
1st Degree Arson (RCW 9A.48.020)  
1st Degree Burglary (RCW 9A.52.020)  
1st Degree Identity Theft (RCW 9.35.020(2))  
2nd Degree Identity Theft (RCW 9.35.020(3))  
1st Degree Extortion (RCW 9A.56.120)  
2nd Degree Extortion (RCW 9A.56.130)  
1st Degree Criminal Mistreatment (RCW 9A.42.020)  
2nd Degree Criminal Mistreatment (RCW 9A.42.030)  
1st Degree Theft from a Vulnerable Adult (RCW 9A.56.400(1))  
2nd Degree Theft from a Vulnerable Adult (RCW 9A.56.400(2))  
Indecent Liberties (RCW 9A.44.100)  
Incest (RCW 9A.64.020)  
Vehicular Homicide (RCW 46.61.520)  
Vehicular Assault (RCW 46.61.522)  
1st Degree Child Molestation (RCW 9A.44.083)  
2nd Degree Child Molestation (RCW 9A.44.086)  
3rd Degree Child Molestation (RCW 9A.44.089)  
1st Degree Promoting Prostitution (RCW 9A.88.070)  
Intimidating a Juror (RCW 9A.72.130)  
Communication with a Minor (RCW 9.68A.090)  
Intimidating a Witness (RCW 9A.72.110)  
Intimidating a Public Servant (RCW 9A.76.180)  
Bomb Threat (if against person) (RCW 9.61.160)  
Unlawful Imprisonment (RCW 9A.40.040)  
Promoting a Suicide Attempt (RCW 9A.36.060)  
Criminal Mischief (if against person) (RCW 9A.84.010)  
Stalking (RCW 9A.46.110)  
Custodial Assault (RCW 9A.36.100)

Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145)

Counterfeiting (if a violation of RCW 9.16.035(4))

Felony Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.502(6))

Felony Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))

#### CRIMES AGAINST PROPERTY/OTHER CRIMES

2nd Degree Arson (RCW 9A.48.030)

1st Degree Escape (RCW 9A.76.110)

2nd Degree Escape (RCW 9A.76.120)

2nd Degree Burglary (RCW 9A.52.030)

1st Degree Theft (RCW 9A.56.030)

2nd Degree Theft (RCW 9A.56.040)

1st Degree Perjury (RCW 9A.72.020)

2nd Degree Perjury (RCW 9A.72.030)

1st Degree Introducing Contraband (RCW 9A.76.140)

2nd Degree Introducing Contraband (RCW 9A.76.150)

1st Degree Possession of Stolen Property (RCW 9A.56.150)

2nd Degree Possession of Stolen Property (RCW 9A.56.160)

Bribery (RCW 9A.68.010)

Bribing a Witness (RCW 9A.72.090)

Bribe received by a Witness (RCW 9A.72.100)

Bomb Threat (if against property) (RCW 9.61.160)

1st Degree Malicious Mischief (RCW 9A.48.070)

2nd Degree Malicious Mischief (RCW 9A.48.080)

1st Degree Reckless Burning (RCW 9A.48.040)

Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and 9A.56.075)

Forgery (RCW 9A.60.020)

2nd Degree Promoting Prostitution (RCW 9A.88.080)

Tampering with a Witness (RCW 9A.72.120)

Trading in Public Office (RCW 9A.68.040)

Trading in Special Influence (RCW 9A.68.050)

Receiving/Granting Unlawful Compensation (RCW 9A.68.030)

Bigamy (RCW 9A.64.010)

Eluding a Pursuing Police Vehicle (RCW 46.61.024)

Willful Failure to Return from Furlough

Escape from Community Custody

Criminal Mischief (if against property) (RCW 9A.84.010)

1st Degree Theft of Livestock (RCW 9A.56.080)

2nd Degree Theft of Livestock (RCW 9A.56.083)

#### ALL OTHER UNCLASSIFIED FELONIES

Selection of Charges/Degree of Charge

(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

- (A) Will significantly enhance the strength of the state's case at trial; or
- (B) Will result in restitution to all victims.

(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

- (A) Charging a higher degree;
- (B) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(b) GUIDELINES/COMMENTARY:

(i) Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

(A) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;

(B) The completion of necessary laboratory tests; and

(C) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

(ii) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(A) Probable cause exists to believe the suspect is guilty; and

(B) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(C) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(iii) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(A) Polygraph testing;

(B) Hypnosis;

(C) Electronic surveillance;

(D) Use of informants.

(iv) Prefiling Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(v) Prefiling Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions.

**Sec. 5009.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(3))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW 9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run—Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Prostitution 1 (RCW 9A.88.070)

- Theft of Ammonia (RCW 69.55.010)
- VII Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
- Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
- Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)
- Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))



- Unlawful Possession of a Firearm in the first degree (RCW 9A.41.040(1))
- Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Air bag diagnostic systems (RCW 46.37.660(2)(c))
- Air bag replacement requirements (RCW 46.37.660(1)(c))
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))

Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145)

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW 9A.82.020)

Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW 9.94.070)

Possession of a Stolen Firearm (RCW 9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW 9A.76.070)

Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))

Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))

Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

Sexually Violating Human Remains (RCW 9A.44.105)

Stalking (RCW 9A.46.110)

- Taking Motor Vehicle Without  
Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a  
Projectile Stun Gun) (RCW  
9A.36.031(1)(h))
- Assault 4 (third domestic violence  
offense) (RCW 9A.36.041(3))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by  
Witness (RCW 9A.72.090,  
9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Driving While Under the Influence (RCW  
46.61.502(6))
- Endangerment with a Controlled  
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW  
46.52.020(4)(b))
- Hit and Run with Vessel—Injury  
Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age  
Fourteen (subsequent sex offense)  
(RCW 9A.88.010)
- Influencing Outcome of Sporting Event  
(RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Physical Control of a Vehicle While  
Under the Influence (RCW  
46.61.504(6))
- Possession of Depictions of a Minor  
Engaged in Sexually Explicit  
Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)

- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-fire Stock, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful Misbranding of (~~Food~~) Fish or Shellfish 1 (RCW 77.140.060(3))
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
  - Computer Trespass 1 (RCW 9A.90.040)
  - Counterfeiting (RCW 9.16.035(3))
  - Electronic Data Service Interference (RCW 9A.90.060)
  - Electronic Data Tampering 1 (RCW 9A.90.080)
  - Electronic Data Theft (RCW 9A.90.100)
  - Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
  - Escape from Community Custody (RCW 72.09.310)
  - Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)

Health Care False Claims (RCW  
48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial  
Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Organized Retail Theft 2 (RCW  
9A.56.350(3))

Possession of Stolen Property 1 (RCW  
9A.56.150)

Possession of a Stolen Vehicle (RCW  
9A.56.068)

Retail Theft with Special Circumstances 2  
(RCW 9A.56.360(3))

Scrap Processing, Recycling, or  
Supplying Without a License (second  
or subsequent offense) (RCW  
19.290.100)

Theft 1 (RCW 9A.56.030)

Theft of a Motor Vehicle (RCW  
9A.56.065)

Theft of Rental, Leased, Lease-purchased,  
or Loaned Property (valued at five  
thousand dollars or more) (RCW  
9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW  
9A.56.340(3))

Trafficking in Insurance Claims (RCW  
48.30A.015)

Unlawful factoring of a credit card or  
payment card transaction (RCW  
9A.56.290(4)(a))

Unlawful Participation of Non-Indians in  
Indian Fishery (RCW 77.15.570(2))

Unlawful Practice of Law (RCW  
2.48.180)

Unlawful Purchase or Use of a License  
(RCW 77.15.650(3)(b))

Unlawful Trafficking in Fish, Shellfish, or  
Wildlife 2 (RCW 77.15.260(3)(a))

- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism 1 (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))
- Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)
- Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)



Unlawful Possession of Instruments of  
Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment  
Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal  
Identification Device (RCW  
9A.56.320)

Unlawful Production of Payment  
Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing,  
or Placing Deleterious Exotic  
Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps  
(RCW 9.91.142)

Unlawful Use of Food Stamps (RCW  
9.91.144)

Unlawful Use of Net to Take Fish 1  
(RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic  
Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or  
Time 1 (RCW 77.15.550(3)(b))

**Sec. 5010.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and 2017 c 128 s 1 are each reenacted and amended to read as follows:

(1) Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the tests prescribed in subsection (2) of this section, the court may in its discretion vacate the record of conviction by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) An applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;

(b) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(c) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence),

9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(d) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses);

(e) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has previously had a conviction for domestic violence. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(f) For any offense other than those described in (e) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(g) The offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction;

(h) The applicant has ever had the record of another conviction vacated; or

(i) The applicant is currently restrained, or has been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

(3) Subject to RCW 9.96.070, every person convicted of prostitution under RCW 9A.88.030 who committed the offense as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. may apply to the sentencing court for vacation of the applicant's record of conviction for the prostitution offense. An applicant may

not have the record of conviction for prostitution vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court, for any crime other than prostitution; or

(b) The offender has been convicted of another crime, except prostitution, in this state, another state, or federal court since the date of conviction. The limitation in this subsection (3)(b) does not apply to convictions where the offender proves by a preponderance of the evidence that he or she committed the crime as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., according to the requirements provided in RCW 9.96.070 for each respective conviction.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5)(a) Once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified

distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~((26.26.138))~~ 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii) stalking (RCW 9A.46.110). A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

(6) All costs incurred by the court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent, at the time the motion is brought.

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

**Sec. 5011.** RCW 10.14.080 and 2011 c 307 s 3 are each amended to read as follows:

(1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 10.14.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 10.14.070 and 10.14.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. The ex parte order and notice of hearing shall include at a minimum the date and time of the hearing set by the court to determine if the temporary order should be made effective for one year or more, and notice that if the respondent should fail to appear or otherwise not respond, an order for protection will be issued against the respondent pursuant to the provisions of this chapter, for a minimum of one year from the date of the hearing. The notice shall also include a brief statement of the provisions of the ex parte order and notify the respondent that a copy of the ex parte order and notice of hearing has been filed with the clerk of the court.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment.

(4) An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires. If so, the court may enter an order for a fixed time exceeding one year or may enter a permanent antiharassment protection order. The court shall not enter an order that is effective for more than one year if the order restrains the respondent from contacting the respondent's minor children. This limitation is not applicable to civil antiharassment protection orders issued under chapter 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW. If the petitioner seeks relief for a period longer than one year on behalf of the respondent's minor children, the court shall advise the petitioner that the petitioner may apply for renewal of the order as provided in this chapter or if appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

(5) At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a petition for renewal. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal, the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in this section. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume harassment of the petitioner when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in subsection (4) of this section.

(6) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

(a) Restraining the respondent from making any attempts to contact the petitioner;

(b) Restraining the respondent from making any attempts to keep the petitioner under surveillance;

(c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace; and

(d) Considering the provisions of RCW 9.41.800.

(7) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order(~~(7)~~) shall not prohibit the respondent from exercising constitutionally protected free speech. Nothing in this section prohibits the petitioner from utilizing other civil or criminal remedies to restrain conduct or communications not otherwise constitutionally protected.

(8) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order(~~(8)~~) shall not prohibit the

respondent from the use or enjoyment of real property to which the respondent has a cognizable claim unless that order is issued under chapter 26.09 RCW or under a separate action commenced with a summons and complaint to determine title or possession of real property.

(9) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order(~~(7)~~) shall not limit the respondent's right to care, control, or custody of the respondent's minor child, unless that order is issued under chapter 13.32A, 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW.

(10) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders against the same respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

(11) The court order shall specify the date an order issued pursuant to subsections (4) and (5) of this section expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

**Sec. 5012.** RCW 10.14.200 and 1999 c 397 s 4 are each amended to read as follows:

Any order available under this chapter may be issued in actions under chapter 13.32A, 26.09, 26.10, (~~or 26.26~~) 26.26A, or 26.26B RCW. An order available under this chapter that is issued under those chapters shall be fully enforceable and shall be enforced pursuant to the provisions of this chapter.

**Sec. 5013.** RCW 10.31.100 and 2017 c 336 s 3 and 2017 c 223 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a

residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW 10.99.010; (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the

officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(~~(4)~~) (5) may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.



(15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

(16)(a) Except as provided in (b) of this subsection, a police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer: (i) Has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years; or (ii) has knowledge, based on a review of the information available to the officer at the time of arrest, that the person is charged with or is awaiting arraignment for an offense that would qualify as a prior offense as defined in RCW 46.61.5055 if it were a conviction.

(b) A police officer is not required to keep in custody a person under (a) of this subsection if the person requires immediate medical attention and is admitted to a hospital.

**Sec. 5014.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(4) "Dating relationship" has the same meaning as in RCW 26.50.010.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

(a) Assault in the first degree (RCW 9A.36.011);

(b) Assault in the second degree (RCW 9A.36.021);

(c) Assault in the third degree (RCW 9A.36.031);

(d) Assault in the fourth degree (RCW 9A.36.041);

(e) Drive-by shooting (RCW 9A.36.045);

(f) Reckless endangerment (RCW 9A.36.050);

(g) Coercion (RCW 9A.36.070);

(h) Burglary in the first degree (RCW 9A.52.020);

(i) Burglary in the second degree (RCW 9A.52.030);

(j) Criminal trespass in the first degree (RCW 9A.52.070);

(k) Criminal trespass in the second degree (RCW 9A.52.080);

(l) Malicious mischief in the first degree (RCW 9A.48.070);

- (m) Malicious mischief in the second degree (RCW 9A.48.080);
  - (n) Malicious mischief in the third degree (RCW 9A.48.090);
  - (o) Kidnapping in the first degree (RCW 9A.40.020);
  - (p) Kidnapping in the second degree (RCW 9A.40.030);
  - (q) Unlawful imprisonment (RCW 9A.40.040);
  - (r) Violation of the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~((26.26.138))~~ 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
  - (s) Rape in the first degree (RCW 9A.44.040);
  - (t) Rape in the second degree (RCW 9A.44.050);
  - (u) Residential burglary (RCW 9A.52.025);
  - (v) Stalking (RCW 9A.46.110); and
  - (w) Interference with the reporting of domestic violence (RCW 9A.36.150).
- (6) "Employee" means any person currently employed with an agency.
- (7) "Sworn employee" means a general authority Washington peace officer as defined in RCW 10.93.020, any person appointed under RCW 35.21.333, and any person appointed or elected to carry out the duties of the sheriff under chapter 36.28 RCW.
- (8) "Victim" means a family or household member who has been subjected to domestic violence.

**Sec. 5015.** RCW 13.04.030 and 2018 c 162 s 2 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If

such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately; or

(C) Rape of a child in the first degree.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(C)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d). However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (C) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services and the department of children, youth, and families.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapter ~~(s)~~ 26.09 ~~((and 26.26)),~~ 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 5016.** RCW 13.34.030 and 2018 c 284 s 3 and 2018 c 58 s 54 are each reenacted and amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent

custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(10) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(11) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(12) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(13) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(14) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(15) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

(16) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(17) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW ((26.26.104)) 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(18) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(19) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(20) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

(21) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the

services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(22) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

(23) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

**Sec. 5017.** RCW 13.34.155 and 2018 c 284 s 16 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the dependency petition dismissed, the department shall not continue to supervise the placement.

(2)(a) The court hearing the dependency petition may establish or modify a parenting plan under chapter 26.09 (~~(or 26.26)~~), 26.26A, or 26.26B RCW as part of a disposition order or at a review hearing when doing so will implement a permanent plan of care for the child and result in dismissal of the dependency.

(b) The dependency court shall adhere to procedural requirements under chapter 26.09 RCW and must make a written finding that the parenting plan

established or modified by the dependency court under this section is in the child's best interests.

(c) Unless the whereabouts of one of the parents is unknown to either the department or the court, the parents must agree, subject to court approval, to establish the parenting plan or modify an existing parenting plan.

(d) Whenever the court is asked to establish or modify a parenting plan, the child's residential schedule, the allocation of decision-making authority, and dispute resolution under this section, the dependency court may:

(i) Appoint a guardian ad litem to represent the interests of the child when the court believes the appointment is necessary to protect the best interests of the child; and

(ii) Appoint an attorney to represent the interests of the child with respect to provisions for the parenting plan.

(e) The dependency court must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(f) The dependency court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for the entry or modification of a parenting plan under this section. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to become part of the court record of the dependency case and the case under chapter ~~(s)~~ 26.09 ~~((or 26.26)), 26.26A, or 26.26B~~ RCW.

(g) In the absence of agreement by a parent, guardian, or legal custodian of the child to allow the juvenile court to hear and determine issues related to the establishment or modification of a parenting plan under chapter ~~(s)~~ 26.09 ~~((or 26.26)), 26.26A, or 26.26B~~ RCW, a party may move the court to transfer such issues to the family law department of the superior court for further resolution. The court may only grant the motion upon entry of a written finding that it is in the best interests of the child.

(h) In any parenting plan agreed to by the parents and entered or modified in juvenile court under this section, all issues pertaining to child support and the division of marital property shall be referred to or retained by the family law department of the superior court.

(3) Any court order determining issues under chapter 26.10 RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.

(4) Any order entered in the dependency court establishing or modifying a permanent legal custody order ~~((or)),~~ parenting plan, or residential schedule under chapter ~~(s)~~ 26.09, 26.10, ~~((and 26.26)) 26.26A, or 26.26B~~ RCW shall also be filed in the chapter ~~(s)~~ 26.09, 26.10, ~~((and 26.26)) 26.26A, or 26.26B~~ RCW action by the moving or prevailing party. If the petitioning or moving party has been found indigent and appointed counsel at public expense in the dependency proceeding, no filing fees shall be imposed by the clerk. Once filed, any order, parenting plan, or residential schedule establishing or modifying permanent legal custody of a child shall survive dismissal of the dependency proceeding.

**Sec. 5018.** RCW 13.38.040 and 2017 3rd sp.s. c 6 s 311 are each amended to read as follows:



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

(1) "Active efforts" means the following:

(a) In any foster care placement or termination of parental rights proceeding of an Indian child under chapter 13.34 RCW and this chapter where the department or a supervising agency as defined in RCW 74.13.020 has a statutory or contractual duty to provide services to, or procure services for, the parent or parents or Indian custodian, or is providing services to a parent or parents or Indian custodian pursuant to a disposition order entered pursuant to RCW 13.34.130, the department or supervising agency shall make timely and diligent efforts to provide or procure such services, including engaging the parent or parents or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services. This shall include those services offered by tribes and Indian organizations whenever possible. At a minimum "active efforts" shall include:

(i) In any dependency proceeding under chapter 13.34 RCW seeking out-of-home placement of an Indian child in which the department or supervising agency provided voluntary services to the parent, parents, or Indian custodian prior to filing the dependency petition, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup of the family beyond simply providing referrals to such services.

(ii) In any dependency proceeding under chapter 13.34 RCW, in which the petitioner is seeking the continued out-of-home placement of an Indian child, the department or supervising agency must show to the court that it has actively worked with the parent, parents, or Indian custodian in accordance with existing court orders and the individual service plan to engage them in remedial services and rehabilitative programs to prevent the breakup of the family beyond simply providing referrals to such services.

(iii) In any termination of parental rights proceeding regarding an Indian child under chapter 13.34 RCW in which the department or supervising agency provided services to the parent, parents, or Indian custodian, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs ordered by the court or identified in the department or supervising agency's individual service and safety plan beyond simply providing referrals to such services.

(b) In any foster care placement or termination of parental rights proceeding in which the petitioner does not otherwise have a statutory or contractual duty to directly provide services to, or procure services for, the parent or Indian custodian, "active efforts" means a documented, concerted, and good faith effort to facilitate the parent's or Indian custodian's receipt of and engagement in services capable of meeting the criteria set out in (a) of this subsection.

(2) "Best interests of the Indian child" means the use of practices in accordance with the federal Indian child welfare act, this chapter, and other applicable law, that are designed to accomplish the following: (a) Protect the safety, well-being, development, and stability of the Indian child; (b) prevent the unnecessary out-of-home placement of the Indian child; (c) acknowledge the

right of Indian tribes to maintain their existence and integrity which will promote the stability and security of their children and families; (d) recognize the value to the Indian child of establishing, developing, or maintaining a political, cultural, social, and spiritual relationship with the Indian child's tribe and tribal community; and (e) in a proceeding under this chapter where out-of-home placement is necessary, to prioritize placement of the Indian child in accordance with the placement preferences of this chapter.

(3) "Child custody proceeding" includes:

(a) "Foster care placement" which means any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home, institution, or with a relative, guardian, conservator, or suitable other person where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) "Termination of parental rights" which means any action resulting in the termination of the parent-child relationship;

(c) "Preadoptive placement" which means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights but before or in lieu of adoptive placement; and

(d) "Adoptive placement" which means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

These terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a dissolution proceeding of custody to one of the parents.

(4) "Court of competent jurisdiction" means a federal court, or a state court that entered an order in a child custody proceeding involving an Indian child, as long as the state court had proper subject matter jurisdiction in accordance with this chapter and the laws of that state, or a tribal court that had or has exclusive or concurrent jurisdiction pursuant to 25 U.S.C. Sec. 1911.

(5) "Department" means the department of children, youth, and families and any of its divisions. "Department" also includes supervising agencies as defined in RCW 74.13.020 with which the department entered into a contract to provide services, care, placement, case management, contract monitoring, or supervision to children subject to a petition filed under chapter 13.34 or 26.33 RCW.

(6) "Indian" means a person who is a member of an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. Sec. 1606.

(7) "Indian child" means an unmarried and unemancipated Indian person who is under eighteen years of age and is either: (a) A member of an Indian tribe; or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(8) "Indian child's family" or "extended family member" means an individual, defined by the law or custom of the child's tribe, as a relative of the child. If the child's tribe does not identify such individuals by law or custom, the term means an adult who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or stepparent, even following termination of the marriage.

(9) "Indian child's tribe" means a tribe in which an Indian child is a member or eligible for membership.

(10) "Indian custodian" means an Indian person who under tribal law, tribal custom, or state law has legal or temporary physical custody of an Indian child, or to whom the parent has transferred temporary care, physical custody, and control of an Indian child.

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. Sec. 1602(c).

(12) "Member" and "membership" means a determination by an Indian tribe that a person is a member or eligible for membership in that Indian tribe.

(13) "Parent" means a biological parent or parents of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "Parent" does not include ~~((an unwed father))~~ a person whose ~~((paternity))~~ parentage has not been acknowledged or established under chapter ~~((26.26))~~ 26.26A RCW or the applicable laws of other states.

(14) "Secretary of the interior" means the secretary of the United States department of the interior.

(15) "Tribal court" means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

(16) "Tribal customary adoption" means adoption or other process through the tribal custom, traditions, or laws of an Indian child's tribe by which the Indian child is permanently placed with a nonparent and through which the nonparent is vested with the rights, privileges, and obligations of a legal parent. Termination of the parent-child relationship between the Indian child and the biological parent is not required to effect or recognize a tribal customary adoption.

**Sec. 5019.** RCW 26.09.030 and 2008 c 6 s 1006 are each amended to read as follows:

When a party who (1) is a resident of this state, or (2) is a member of the armed forces and is stationed in this state, or (3) is married or in a domestic partnership to a party who is a resident of this state or who is a member of the armed forces and is stationed in this state, petitions for a dissolution of marriage or dissolution of domestic partnership, and alleges that the marriage or domestic partnership is irretrievably broken and when ninety days have elapsed since the petition was filed and from the date when service of summons was made upon the respondent or the first publication of summons was made, the court shall proceed as follows:

(a) If the other party joins in the petition or does not deny that the marriage or domestic partnership is irretrievably broken, the court shall enter a decree of dissolution.

(b) If the other party alleges that the petitioner was induced to file the petition by fraud, or coercion, the court shall make a finding as to that allegation and, if it so finds shall dismiss the petition.

(c) If the other party denies that the marriage or domestic partnership is irretrievably broken the court shall consider all relevant factors, including the

circumstances that gave rise to the filing of the petition and the prospects for reconciliation and shall:

(i) Make a finding that the marriage or domestic partnership is irretrievably broken and enter a decree of dissolution of the marriage or domestic partnership; or

(ii) At the request of either party or on its own motion, transfer the cause to the family court, refer them to another counseling service of their choice, and request a report back from the counseling service within sixty days, or continue the matter for not more than sixty days for hearing. If the cause is returned from the family court or at the adjourned hearing, the court shall:

(A) Find that the parties have agreed to reconciliation and dismiss the petition; or

(B) Find that the parties have not been reconciled, and that either party continues to allege that the marriage or domestic partnership is irretrievably broken. When such facts are found, the court shall enter a decree of dissolution of the marriage or domestic partnership.

(d) If the petitioner requests the court to decree legal separation in lieu of dissolution, the court shall enter the decree in that form unless the other party objects and petitions for a decree of dissolution or declaration of invalidity.

(e) In considering a petition for dissolution of marriage or domestic partnership, a court shall not use a party's pregnancy as the sole basis for denying or delaying the entry of a decree of dissolution of marriage or domestic partnership. Granting a decree of dissolution of marriage or domestic partnership when a party is pregnant does not affect further proceedings under ~~((the uniform parentage act,))~~ chapter ~~((26.26))~~ 26.26A or 26.26B RCW.

**Sec. 5020.** RCW 26.09.191 and 2017 c 234 s 2 are each amended to read as follows:

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in RCW 26.50.010(3) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm or that results in a pregnancy; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been

found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and that:

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that the child was not conceived and subsequently born as a result of a sexual assault committed by the parent requesting residential time and that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have residential time with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court

shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.



(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a certified sex offender treatment provider or a certified affiliate sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. The limitations shall also be reasonably calculated to provide for the safety of the parent who may be at risk of physical, sexual, or emotional abuse or harm that could result if the parent has contact with the parent requesting residential time. The limitations the court may impose include, but are not limited to: Supervised contact between the child and the parent or completion of relevant counseling or treatment. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence pursuant to RCW ((26.26.760)) 26.26A.465 to have committed sexual assault, as defined in RCW ((26.26.760)) 26.26A.465, against the child's parent, and that the child was born within three hundred twenty days of the sexual assault.

(iv) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iv) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iv) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

- (a) A parent's neglect or substantial nonperformance of parenting functions;
- (b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;
- (c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;
- (d) The absence or substantial impairment of emotional ties between the parent and the child;
- (e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;
- (f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or
- (g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In cases involving allegations of limiting factors under subsection (2)(a)(ii) and (iii) of this section, both parties shall be screened to determine the appropriateness of a comprehensive assessment regarding the impact of the limiting factor on the child and the parties.

(5) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(6) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

(7) For the purposes of this section:

(a) "A parent's child" means that parent's natural child, adopted child, or stepchild; and

(b) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

**Sec. 5021.** RCW 26.09.405 and 2008 c 259 s 2 are each amended to read as follows:

(1) The provisions of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and ~~((26.26.160))~~ 26.26B.090 apply to a court order regarding residential time or visitation with a child issued:

(a) After June 8, 2000; and

(b) Before June 8, 2000, if the existing court order does not expressly govern relocation of the child.

(2) To the extent that a provision of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and ~~((26.26.160))~~ 26.26B.090 conflicts with the express terms of a court order existing prior to June 8, 2000, then RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and ~~((26.26.160))~~ 26.26B.090 do not apply to those terms of that order governing relocation of the child.

(3) The provisions of RCW 26.09.405 through 26.09.560 do not apply to visitation orders entered in dependency proceedings as provided in RCW 13.34.385.

**Sec. 5022.** RCW 26.09.510 and 2000 c 21 s 13 are each amended to read as follows:

(1) The court may grant a temporary order restraining relocation of the child, or ordering return of the child if the child's relocation has occurred, if the court finds:

(a) The required notice of an intended relocation of the child was not provided in a timely manner and the nonrelocating party was substantially prejudiced;

(b) The relocation of the child has occurred without agreement of the parties, court order, or the notice required by RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and ~~((26.26.160))~~ 26.26B.090; or

(c) After examining evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will not approve the intended relocation of the child or no circumstances exist sufficient to warrant a relocation of the child prior to a final determination at trial.

(2) The court may grant a temporary order authorizing the intended relocation of the child pending final hearing if the court finds:

(a) The required notice of an intended relocation of the child was provided in a timely manner or that the circumstances otherwise warrant issuance of a

temporary order in the absence of compliance with the notice requirements and issues an order for a revised schedule for residential time with the child; and

(b) After examining the evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will approve the intended relocation of the child.

**Sec. 5023.** RCW 26.12.802 and 2005 c 282 s 31 are each amended to read as follows:

The administrative office of the courts shall conduct a unified family court pilot program.

(1) Pilot program sites shall be selected through a request for proposal process, and shall be established in no more than three superior court judicial districts.

(2) To be eligible for consideration as a pilot project site, judicial districts must have a statutorily authorized judicial complement of at least five judges.

(3) The administrative office of the courts shall develop criteria for the unified family court pilot program. The pilot program shall include:

(a) All case types under Title 13 RCW, chapters 26.09, 26.10, 26.12, 26.18, 26.19, 26.20, (~~26.26~~) 26.26A, 26.26B, 26.50, 26.27, and 28A.225 RCW;

(b) Unified family court judicial officers, who volunteer for the program, and meet training requirements established by local court rule;

(c) Case management practices that provide a flexible response to the diverse court-related needs of families involved in multiple areas of the justice system. Case management practices should result in a reduction in process redundancies and an efficient use of time and resources, and create a system enabling multiple case type resolution by one judicial officer or judicial team;

(d) A court facilitator to provide assistance to parties with matters before the unified family court; and

(e) An emphasis on providing nonadversarial methods of dispute resolution such as a settlement conference, evaluative mediation by attorney mediators, and facilitative mediation by nonattorney mediators.

(4) The administrative office of the courts shall publish and disseminate a state-approved listing of definitions of nonadversarial methods of dispute resolution so that court officials, practitioners, and users can choose the most appropriate process for the matter at hand.

(5) The administrative office of the courts shall provide to the judicial districts selected for the pilot program the computer resources needed by each judicial district to implement the unified family court pilot program.

(6) The administrative office of the courts shall conduct a study of the pilot program measuring improvements in the judicial system's response to family involvement in the judicial system. The administrator for the courts shall report preliminary findings and final results of the study to the governor, the chief justice of the supreme court, and the legislature on a biennial basis. The initial report is due by July 1, 2000, and the final report is due by December 1, 2004.

**Sec. 5024.** RCW 26.18.010 and 2008 c 6 s 1026 are each amended to read as follows:

The legislature finds that there is an urgent need for vigorous enforcement of child support and maintenance obligations, and that stronger and more

efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21A, (~~(26.26)~~) 26.26A, 26.26B, 74.20, and 74.20A RCW.

**Sec. 5025.** RCW 26.18.220 and 2005 c 282 s 34 are each amended to read as follows:

(1) The administrative office of the courts shall develop not later than July 1, 1991, standard court forms and format rules for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, (~~and 26.26~~) 26.26A, and 26.26B RCW effective January 1, 1992. The administrator for the courts shall develop mandatory forms for financial affidavits for integration into the worksheets. The forms shall be developed and approved not later than September 1, 1992. The parties shall use the mandatory form for financial affidavits for actions commenced on or after September 1, 1992. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) A party may delete unnecessary portions of the forms according to the rules established by the administrative office of the courts. A party may supplement the mandatory forms with additional material.

(3) A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrative office of the courts shall distribute a master copy of the forms to all county court clerks. The administrative office of the courts and county clerks shall distribute the mandatory forms to the public upon request and may charge for the cost of production and distribution of the forms. Private vendors may distribute the mandatory forms. Distribution may be in printed or electronic form.

**Sec. 5026.** RCW 26.23.050 and 2018 c 150 s 104 are each amended to read as follows:

(1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the responsible parent to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the receiving parent might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that any parent required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(e) A statement that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the responsible parent to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(ii) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any parent required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(iv) A statement that a parent seeking to enforce the obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The

superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent, after a payment is past due.

(c) If a mandatory wage withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding notice.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that a parent's licensing privileges may not be renewed, or may be suspended, the division of child support may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the responsible parent and the custodial parent to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the responsible parent and the custodial parent shall be obligated to provide medical support for his or her child through health care coverage if:

(i) The obligated parent provides accessible coverage for the child through private or public health care coverage; or

(ii) Coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as that parent's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a parent providing health care coverage must notify both the division of child support and the other parent when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the parent seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the parent required to provide medical support without further notice to the parent as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each parent must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the responsible parent's employer. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the



information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the responsible parent has been ordered or notified to make payments to the Washington state support registry under this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, ~~((26.26))~~ 26.26A, 26.26B, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or ~~((paternity))~~ parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or ~~((paternity))~~ parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated ~~((paternity))~~ parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**Sec. 5027.** RCW 26.26B.010 and 2005 c 282 s 38 are each amended to read as follows:

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter or chapter 26.26A RCW unless on forms approved by the administrative office of the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

**Sec. 5028.** RCW 26.26B.020 and 2011 c 283 s 9 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct one parent to pay the reasonable expenses of the mother's pregnancy and childbirth. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain a provision that each party must file with the court and the Washington state child support registry and update as necessary the information required in the confidential information form required by RCW 26.23.050.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the parent's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party. If a parenting plan or residential schedule was not entered at the time the order establishing parentage was entered, a parent may move the court for entry of a parenting plan or residential schedule:

(a) By filing a motion and proposed parenting plan or residential schedule and providing notice to the other parent and other persons who have residential time with the child pursuant to a court order: PROVIDED, That at the time of filing the motion less than twenty-four months have passed since entry of the order establishing parentage and that the proposed parenting plan or residential schedule does not change the designation of the parent with whom the child spends the majority of time; or

(b) By filing a petition for modification under RCW 26.09.260 or petition to establish a parenting plan, residential schedule, or residential provisions.

(8) In any dispute between the persons claiming parentage of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more

before court action is commenced by the persons claiming parentage, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(9) In entering an order under this chapter or chapter 26.26A RCW, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(10) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(11) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(12) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

**Sec. 5029.** RCW 26.26B.040 and 2011 c 336 s 693 are each amended to read as follows:

A court may not order payment for support provided or expenses incurred more than five years prior to the commencement of the action. Any period of time in which the responsible party has concealed himself or herself or avoided the jurisdiction of the court under this chapter or chapter 26.26A RCW shall not be included within the five-year period.

**Sec. 5030.** RCW 26.26B.050 and 2000 c 119 s 23 are each amended to read as follows:

(1) Whenever a restraining order is issued under this chapter or chapter 26.26A RCW, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, is punishable under RCW 26.50.110.

(2) A person is deemed to have notice of a restraining order if:

- (a) The person to be restrained or the person's attorney signed the order;
- (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;
- (c) The order was served upon the person to be restrained; or
- (d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

- (a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
- (b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A restraining order has been issued under this chapter or chapter 26.26A RCW;

(b) The respondent or person to be restrained knows of the order; and

(c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

**Sec. 5031.** RCW 26.26B.070 and 1997 c 58 s 939 are each amended to read as follows:

In all actions brought under this chapter or chapter 26.26A RCW, bills for pregnancy, childbirth, and genetic testing shall:

(1) Be admissible as evidence without requiring third-party foundation testimony; and

(2) Constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

**Sec. 5032.** RCW 26.26B.080 and 2011 c 283 s 10 are each amended to read as follows:

(1) If existence of the parent and child relationship is declared, or ~~((paternity))~~ parentage or a duty of support has been acknowledged or adjudicated under this chapter or chapter 26.26A RCW or under prior law, the obligation of the parent may be enforced in the same or other proceedings by the other parent, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, childbirth, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate arrangement approved by the court as provided in RCW 26.23.050(2).

(3) All remedies for the enforcement of judgments apply.

**Sec. 5033.** RCW 26.26B.100 and 2018 c 150 s 105 are each amended to read as follows:

(1) In entering or modifying a support order under this chapter or chapter 26.26A RCW, the court shall require either or both parents to maintain or provide health care coverage for any dependent child as provided under RCW 26.09.105.

(2) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health costs, or insurance premiums which are in addition to and not inconsistent with this section.

(3) A parent ordered to provide health care coverage shall provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(4) Every order requiring a parent to provide health care coverage shall be entered in compliance with RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

**Sec. 5034.** RCW 26.33.020 and 2017 3rd sp.s. c 6 s 319 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adoptee" means a person who is to be adopted or who has been adopted.

(2) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(3) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child-placing agency under chapter 74.15 RCW or as an adoption agency.

(4) "~~Alleged ((father)) genetic parent~~" (~~((means a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child))~~) has the same meaning as defined in RCW 26.26A.010.

(5) "Birth parent" means the ~~((biological mother or biological))~~ woman who gave birth to the child or alleged ~~((father of a))~~ genetic parent of the child, including a presumed ~~((father))~~ parent under chapter ~~((26.26))~~ 26.26A RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a ~~((biological mother or biological))~~ woman who gave birth to the child or alleged

~~((father))~~ genetic parent of the child, including a presumed ~~((father))~~ parent under chapter ~~((26.26))~~ 26.26A RCW, if the parent-child relationship was terminated because of an act for which the person was found guilty under chapter 9A.42 or 9A.44 RCW.

(6) "Child" means a person under eighteen years of age.

(7) "Court" means the superior court.

(8) "Department" means the department of children, youth, and families.

(9) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(10) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(11) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(12) "Nonidentifying information" includes, but is not limited to, the following information about the birth parents, adoptive parents, and adoptee:

(a) Age in years at the time of adoption;

(b) Heritage, including nationality, ethnic background, and race;

(c) Education, including number of years of school completed at the time of adoption, but not name or location of school;

(d) General physical appearance, including height, weight, color of hair, eyes, and skin, or other information of a similar nature;

(e) Religion;

(f) Occupation, but not specific titles or places of employment;

(g) Talents, hobbies, and special interests;

(h) Circumstances leading to the adoption;

(i) Medical and genetic history of birth parents;

(j) First names;

(k) Other children of birth parents by age, sex, and medical history;

(l) Extended family of birth parents by age, sex, and medical history;

(m) The fact of the death, and age and cause, if known;

(n) Photographs;

(o) Name of agency or individual that facilitated the adoption.

(13) "Parent" ~~((means the natural or adoptive mother or father of a child, including a presumed father under chapter 26.26 RCW. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction))~~ has the same meaning as defined in RCW 26.26A.010.

(14) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents.

**Sec. 5035.** RCW 26.33.110 and 1995 c 270 s 5 are each amended to read as follows:

(1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than

forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or alleged ~~((father))~~ genetic parent, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged ~~((father))~~ genetic parent that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service if served within the state or thirty days if served outside of this state, will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged ~~((father))~~ genetic parent that failure to file a claim of ~~((paternity))~~ parentage under chapter ~~((26.26))~~ 26.26A or 26.26B RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his or her parent-child relationship with respect to the child;

(d) Inform an alleged ~~((father))~~ genetic parent of an Indian child that if he or she acknowledges ~~((paternity))~~ parentage of the child or if his or her ~~((paternity))~~ parentage of the child is established prior to the termination of the parent-child relationship, that his or her parental rights may not be terminated unless he or she: (i) Gives valid consent to termination, or (ii) his or her parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW.

**Sec. 5036.** RCW 26.50.025 and 1995 c 246 s 2 are each amended to read as follows:

(1) Any order available under this chapter may be issued in actions under chapter 26.09, 26.10, ~~((or 26.26))~~ 26.26A, or 26.26B RCW. If an order for protection is issued in an action under chapter 26.09, 26.10, ~~((or 26.26))~~ 26.26A, or 26.26B RCW, the order shall be issued on the forms mandated by RCW 26.50.035(1). An order issued in accordance with this subsection is fully enforceable and shall be enforced under the provisions of this chapter.

(2) If a party files an action under chapter 26.09, 26.10, ~~((or 26.26))~~ 26.26A, or 26.26B RCW, an order issued previously under this chapter between the same parties may be consolidated by the court under that action and cause number. Any order issued under this chapter after consolidation shall contain the original cause number and the cause number of the action under chapter 26.09, 26.10, ~~((or 26.26))~~ 26.26A, or 26.26B RCW. Relief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action.

**Sec. 5037.** RCW 26.50.035 and 2005 c 282 s 40 are each amended to read as follows:

(1) The administrative office of the courts shall develop and prepare instructions and informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a domestic violence protection order as provided under this chapter, an antiharassment no-contact order as provided under chapter 9A.46 RCW, a domestic violence no-contact order as provided under chapter 10.99 RCW, a restraining order as provided under chapters 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, and 26.44 RCW, an antiharassment protection order as provided by chapter 10.14 RCW, and a foreign protection order as defined in chapter 26.52 RCW.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and



informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary.

**Sec. 5038.** RCW 26.50.060 and 2018 c 84 s 1 are each amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees or limited license legal technician fees when such fees are incurred by a person licensed and practicing in accordance with the state supreme court's admission to practice rule 28, the limited practice rule for limited license legal technicians;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Restrain the respondent from harassing, following, keeping under physical or electronic surveillance, cyberstalking as defined in RCW 9.61.260, and using telephonic, audiovisual, or other electronic means to monitor the actions, location, or communication of a victim of domestic violence, the victim's children, or members of the victim's household. For the purposes of this subsection, "communication" includes both "wire communication" and "electronic communication" as defined in RCW 9.73.260;

(j) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(k) Consider the provisions of RCW 9.41.800;

(l) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found; and

(m) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, (~~(or 26.26)~~) 26.26A, or 26.26B RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 (~~(or 26.26)~~), 26.26A, or 26.26B RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(g) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

**Sec. 5039.** RCW 26.50.110 and 2017 c 230 s 9 are each amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court:

(i) May require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(ii) Shall impose a fine of fifteen dollars, in addition to any penalty or fine imposed, for a violation of a domestic violence protection order issued under this chapter. Revenue from the fifteen dollar fine must be remitted monthly to the state treasury for deposit in the domestic violence prevention account.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.92, 7.90, 9A.40, 9A.46, 9A.88, 9.94A, 10.99, 26.09, 26.10, (~~26.26~~) 26.26A, 26.26B, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

**Sec. 5040.** RCW 26.50.160 and 2017 3rd sp.s. c 6 s 335 are each amended to read as follows:

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a database containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every sexual assault protection order issued under chapter 7.90 RCW, every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, every parentage action under chapter ~~((26.26))~~ 26.26A or 26.26B RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign protection order filed under chapter 26.52 RCW, and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services or department of children, youth, and families has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the database as a party rather than the guardian or appropriate department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee.

**Sec. 5041.** RCW 36.28A.410 and 2017 c 261 s 5 are each amended to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose, the Washington association of sheriffs and police chiefs shall create and operate a statewide automated protected person notification system to automatically notify a registered person via the registered person's choice of telephone or email when a respondent subject to a court order specified in (b) of this subsection has attempted to purchase or acquire a firearm and been denied based on a background check or completed and submitted firearm purchase or transfer application that indicates the respondent is ineligible to possess a firearm under state or federal law. The system must permit a person to register for notification, or a registered person to update the person's registration information, for the statewide automated protected person notification system by calling a toll-free telephone number or by accessing a public web site.

(b) The notification requirements of this section apply to any court order issued under chapter 7.92 RCW and RCW 7.90.090, 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, ~~((26.26.130, 26.26.590))~~ 26.26A.470, 26.26B.020, 26.50.060, or 26.50.070, and any foreign protection order filed with a Washington court pursuant to chapter 26.52 RCW, where the order prohibits the respondent from possessing firearms or where by operation of law the respondent is ineligible to possess firearms during the term of the order. The notification requirements of this section apply even if the respondent has notified the Washington state patrol that he or she has appealed a background check denial under RCW 43.43.823.

(2) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of government and its

employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to the statewide automated protected person notification system in this section, so long as the release or failure to release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(3) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs pursuant to chapter 261, Laws of 2017, including information a person submits to register and participate in the statewide automated protected person notification system, are exempt from public inspection and copying under chapter 42.56 RCW.

**Sec. 5042.** RCW 59.18.575 and 2009 c 395 s 2 are each amended to read as follows:

(1)(a) If a tenant notifies the landlord in writing that he or she or a household member was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and either (a)(i) or (ii) of this subsection applies, then subsection (2) of this section applies:

(i) The tenant or the household member has a valid order for protection under one or more of the following: Chapter 7.90, 26.50, (~~or 26.26~~) 26.26A, or 26.26B RCW or RCW 9A.46.040, 9A.46.050, 10.14.080, 10.99.040 (2) or (3), or 26.09.050; or

(ii) The tenant or the household member has reported the domestic violence, sexual assault, unlawful harassment, or stalking to a qualified third party acting in his or her official capacity and the qualified third party has provided the tenant or the household member a written record of the report signed by the qualified third party.

(b) When a copy of a valid order for protection or a written record of a report signed by a qualified third party, as required under (a) of this subsection, is made available to the landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under this chapter (~~(59.18 RCW)~~). However, the request to terminate the rental agreement must occur within ninety days of the reported act, event, or circumstance that gave rise to the protective order or report to a qualified third party. A record of the report to a qualified third party that is provided to the tenant or household member shall consist of a document signed and dated by the qualified third party stating: (i) That the tenant or the household member notified him or her that he or she was a victim of an act or acts that constitute a crime of domestic violence, sexual assault, unlawful harassment, or stalking; (ii) the time and date the act or acts occurred; (iii) the location where the act or acts occurred; (iv) a brief description of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking; and (v) that the tenant or household member informed him or her of the name of the alleged perpetrator of the act or acts. The record of the report provided to the tenant or household member shall not include the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The qualified third party shall keep a copy of the record of the report and shall note on the retained copy the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The record of the report to a

qualified third party may be accomplished by completion of a form provided by the qualified third party, in substantially the following form:

.....  
[Name of organization, agency, clinic, professional service provider]

- I and/or my . . . . . (household member) am/is a victim of
  - . . . domestic violence as defined by RCW 26.50.010.
  - . . . sexual assault as defined by RCW 70.125.030.
  - . . . stalking as defined by RCW 9A.46.110.
  - . . . unlawful harassment as defined by RCW 59.18.570.

Briefly describe the incident of domestic violence, sexual assault, unlawful harassment, or stalking: . . . . .  
.....

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s) and at the following location(s): . . . . .

The incident(s) that I rely on in support of this declaration were committed by the following person(s): . . .  
.....

I state under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. Dated at . . . . . (city) . . , Washington, this . . . day of . . . , (~~20--~~)  
. . . (year)

.....  
Signature of Tenant or Household Member

I verify that I have provided to the person whose signature appears above the statutes cited in RCW 59.18.575 and that the individual was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and that the individual informed me of the name of the alleged perpetrator of the act.  
Dated this . . . day of . . . , (~~20--~~) . . . (year)

.....  
Signature of authorized  
officer/employee of  
(Organization, agency, clinic,  
professional service provider)

(2) A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW 59.18.200(1). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW 59.18.020 and 59.18.280. Other tenants who are parties to the rental agreement, except household members who are the victims of sexual assault, stalking, unlawful harassment, or domestic violence, are not released from their obligations under the rental agreement or other obligations under this chapter.

(3)(a) Notwithstanding any other provision under this section, if a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under this chapter prior to making a copy of a valid order for protection or a written record of a report signed by a qualified third party available to the landlord, provided that:

(i) The tenant must deliver a copy of a valid order for protection or written record of a report signed by a qualified third party to the landlord by mail, fax, or personal delivery by a third party within seven days of quitting the tenant's dwelling unit; and

(ii) A written record of a report signed by the qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator of the act to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW 59.18.570.

(b) A tenant who terminates his or her rental agreement under this subsection is discharged from the payment of rent for any period following the latter of: (i) The date the tenant vacates the unit; or (ii) the date the record of the report of the qualified third party and the written notice that the tenant has vacated are delivered to the landlord by mail, fax, or personal delivery by a third party. The tenant is entitled to a pro rata refund of any prepaid rent and must receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW 59.18.280.

(4) If a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may change or add locks to the tenant's dwelling unit at the tenant's expense. If a tenant exercises his or her rights to change or add locks, the following rules apply:

(a) Within seven days of changing or adding locks, the tenant must deliver to the landlord by mail, fax, or personal delivery by a third party: (i) Written



notice that the tenant has changed or added locks; and (ii) a copy of a valid order for protection or a written record of a report signed by a qualified third party. A written record of a report signed by a qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW 59.18.570.

(b) After the tenant provides notice to the landlord that the tenant has changed or added locks, the tenant's rental agreement shall terminate on the ninetieth day after providing such notice, unless:

(i) Within sixty days of providing notice that the tenant has changed or added locks, the tenant notifies the landlord in writing that the tenant does not wish to terminate his or her rental agreement. If the perpetrator has been identified by the qualified third party and is no longer an employee or agent of the landlord or owner and does not reside at the property, the tenant shall provide the owner or owner's designated agent with a copy of the key to the new locks at the same time as providing notice that the tenant does not wish to terminate his or her rental agreement. A tenant who has a valid protection, antiharassment, or other protective order against the owner of the premises or against an employee or agent of the landlord or owner is not required to provide a key to the new locks until the protective order expires or the tenant vacates; or

(ii) The tenant exercises his or her rights to terminate the rental agreement under subsection (3) of this section within sixty days of providing notice that the tenant has changed or added locks.

(c) After a landlord receives notice that a tenant has changed or added locks to his or her dwelling unit under (a) of this subsection, the landlord may not enter the tenant's dwelling unit except as follows:

(i) In the case of an emergency, the landlord may enter the unit if accompanied by a law enforcement or fire official acting in his or her official capacity. If the landlord reasonably concludes that the circumstances require immediate entry into the unit, the landlord may, after notifying emergency services, use such force as necessary to enter the unit if the tenant is not present; or

(ii) The landlord complies with the requirements of RCW 59.18.150 and clearly specifies in writing the time and date that the landlord intends to enter the unit and the purpose for entering the unit. The tenant must make arrangements to permit access by the landlord.

(d) The exercise of rights to change or add locks under this subsection does not discharge the tenant from the payment of rent until the rental agreement is terminated and the tenant vacates the unit.

(e) The tenant may not change any locks to common areas and must make keys for new locks available to other household members.

(f) Upon vacating the dwelling unit, the tenant must deliver the key and all copies of the key to the landlord by mail or personal delivery by a third party.

(5) A tenant's remedies under this section do not preempt any other legal remedy available to the tenant.

(6) The provision of verification of a report under subsection (1)(b) of this section does not waive the confidential or privileged nature of the communication between a victim of domestic violence, sexual assault, or stalking with a qualified third party pursuant to RCW 5.60.060, 70.123.075, or 70.125.065. No record or evidence obtained from such disclosure may be used in any civil, administrative, or criminal proceeding against the victim unless a written waiver of applicable evidentiary privilege is obtained, except that the verification itself, and no other privileged information, under subsection (1)(b) of this section may be used in civil proceedings brought under this section.

**Sec. 5043.** RCW 72.09.712 and 2009 c 521 s 166 and 2009 c 400 s 1 are each reenacted and amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~((26.26.138))~~ 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ~~((26.26.138))~~ 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as

undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

**Sec. 5044.** RCW 72.09.714 and 2009 c 400 s 2 and 2009 c 28 s 37 are each reenacted and amended to read as follows:

The department of corrections shall provide the victims, witnesses, and next of kin in the case of a homicide and victims and witnesses involved in violent offense cases, sex offenses as defined by RCW 9.94A.030, a domestic violence court order violation pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.50.110, 26.52.070, or 74.34.145, or a felony harassment pursuant to RCW 9A.46.060 or 9A.46.110, a statement of the

rights of victims and witnesses to request and receive notification under RCW 72.09.712 and 72.09.716.

**Sec. 5045.** RCW 74.13.031 and 2018 c 284 s 37, 2018 c 80 s 1, and 2018 c 34 s 5 are each reenacted and amended to read as follows:

(1) The department shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department is encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other

required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;

(iv) Engaged in employment for eighty hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age twenty-one years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages eighteen and twenty-one.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(17) The department shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is

performing the duties and meeting the obligations specified in this section and RCW 74.13.250 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

(19)(a) The department shall have the authority to purchase legal representation for parents or kinship caregivers, or both, of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan under RCW 13.34.155 or chapter 26.09 (~~(or 26.26)~~), 26.26A, or 26.26B RCW or secure orders establishing other relevant civil legal relationships authorized by law, when it is necessary for the child's safety, permanence, or well-being. The department's purchase of legal representation for kinship caregivers must be within the department's appropriations. This subsection does not create an entitlement to legal representation purchased by the department and does not create judicial authority to order the department to purchase legal representation for a parent or kinship caregiver. Such determinations are solely within the department's discretion. The term "kinship caregiver" as used in this section means a caregiver who meets the definition of "kin" in RCW 74.13.600(1), unless the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver" as used in this section means a caregiver who is an "extended family member" as defined in RCW 13.38.040(8).

(b) The department is encouraged to work with the office of public defense parent representation program and the office of civil legal aid to develop a cost-effective system for providing effective civil legal representation for parents and kinship caregivers if it exercises its authority under this subsection.

**Sec. 5046.** RCW 74.20.040 and 2012 1st sp.s. c 4 s 1 are each amended to read as follows:

(1) Whenever the department receives an application for public assistance on behalf of a child, the department shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of

this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required by subsection (6) of this section or through regulation issued by the secretary. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations, or to enforce subpoenas, information requests, orders for genetic testing, and collection actions issued by the other agency against the parent or other person owing a duty to pay support moneys, the parent or other person's employer, or any other person or entity properly subject to child support collection or information-gathering processes. The request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency. The secretary may adopt rules setting forth the duration and nature of services provided under this subsection.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21A, (~~(or 26.26)~~) 26.26A, or 26.26B RCW or other appropriate statutes or the common law of this state.

(5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary, in the case of an individual who has never received assistance under a state program funded under part A and for whom the state has collected at least five hundred dollars of support, shall impose an annual fee of twenty-five dollars for each case in which services are furnished, which shall be retained by the state from support collected on behalf of the individual, but not from the first five hundred dollars of support. The secretary may, on showing of necessity, waive or defer any such fee or cost.

(7) Fees, due and owing, may be retained from support payments directly or collected as delinquent support moneys utilizing any of the remedies in this chapter (~~(74.20 RCW)~~), chapter 74.20A RCW, chapter 26.21A RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee



if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys or fees owed.

(9) The secretary shall adopt rules conforming to federal laws, including but not limited to complying with section 7310 of the federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules and regulations required to be observed in maintaining the state child support enforcement program required under Title IV-D of the federal social security act. The adoption of these rules shall be calculated to promote the cost-effective use of the agency's resources and not otherwise cause the agency to divert its resources from its essential functions.

**Sec. 5047.** RCW 74.20.225 and 1997 c 58 s 898 are each amended to read as follows:

In carrying out the provisions of this chapter or chapters 26.18, 26.23, ((26.26)) 26.26A, 26.26B, and 74.20A RCW, the secretary and other duly authorized officers of the department may subpoena witnesses, take testimony, and compel the production of such papers, books, records, and documents as they may deem relevant to the performance of their duties. The division of child support may enforce subpoenas issued under this power according to RCW 74.20A.350.

**Sec. 5048.** RCW 74.20.310 and 2002 c 302 s 705 are each amended to read as follows:

(1) The provisions of RCW ((26.26.555)) 26.26A.485 requiring appointment of a guardian ad litem to represent the child in an action brought to determine the parent and child relationship do not apply to actions brought under chapter ((26.26)) 26.26A or 26.26B RCW if:

(a) The action is brought by the attorney general on behalf of the department of social and health services and the child; or

(b) The action is brought by any prosecuting attorney on behalf of the state and the child when referral has been made to the prosecuting attorney by the department of social and health services requesting such action.

(2) On the issue of parentage, the attorney general or prosecuting attorney functions as the child's guardian ad litem provided the interests of the state and the child are not in conflict.

(3) The court, on its own motion or on motion of a party, may appoint a guardian ad litem when necessary.

(4) The summons shall contain a notice to the parents that pursuant to RCW ((26.26.555)) 26.26A.485 the parents have a right to move the court for a guardian ad litem for the child other than the prosecuting attorney or the attorney general subject to subsection (2) of this section.

**Sec. 5049.** RCW 74.20.350 and 1979 ex.s. c 171 s 19 are each amended to read as follows:

In order to facilitate and ensure compliance with Title IV-D of the federal social security act, now existing or hereafter amended, wherein the state is required to undertake to establish ((paternity)) parentage of such children as are born out of wedlock, the secretary of social and health services may pay the reasonable and proper fees of attorneys admitted to practice before the courts of this state, who are engaged in private practice for the purpose of maintaining actions under chapter ((26.26)) 26.26A or 26.26B RCW on behalf of such

children, to the end that parent and child relationships be determined and financial support obligations be established by superior court order. The secretary or the secretary's designee shall make the determination in each case as to which cases shall be referred for representation by such private attorneys. The secretary may advance, pay, or reimburse for payment of, such reasonable costs as may be attendant to an action under chapter ((~~26.26~~) 26.26A or 26.26B RCW. The representation by a private attorney shall be only on behalf of the subject child, the custodial natural parent, and the child's personal representative or guardian ad litem, and shall not in any manner be, or be construed to be, in representation of the department of social and health services or the state of Washington, such representation being restricted to that provided pursuant to chapters 43.10 and 36.27 RCW.

**Sec. 5050.** RCW 74.20.360 and 2002 c 302 s 706 are each amended to read as follows:

(1) The division of child support may issue an order for genetic testing when providing services under this chapter and Title IV-D of the federal social security act if genetic testing:

(a) Is appropriate in an action under chapter ((~~26.26~~) 26.26A RCW, the uniform parentage act;

(b) Is appropriate in an action to establish support under RCW 74.20A.056; or

(c) Would assist the parties or the division of child support in determining whether it is appropriate to proceed with an action to establish or disestablish ((~~paternity~~) parentage.

(2) The order for genetic testing shall be served on the alleged genetic parent or parents and the legal parent by personal service or by any form of mail requiring a return receipt.

(3) Within twenty days of the date of service of an order for genetic testing, any party required to appear for genetic testing, the child, or a guardian on the child's behalf, may petition in superior court under chapter ((~~26.26~~) 26.26A RCW to bar or postpone genetic testing.

(4) The order for genetic testing shall contain:

(a) An explanation of the right to proceed in superior court under subsection (3) of this section;

(b) Notice that if no one proceeds under subsection (3) of this section, the agency issuing the order will schedule genetic testing and will notify the parties of the time and place of testing by regular mail;

(c) Notice that the parties must keep the agency issuing the order for genetic testing informed of their residence address and that mailing a notice of time and place for genetic testing to the last known address of the parties by regular mail constitutes valid service of the notice of time and place;

(d) Notice that the order for genetic testing may be enforced through:

(i) Public assistance grant reduction for noncooperation, pursuant to agency rule, if the child and custodian are receiving public assistance;

(ii) Termination of support enforcement services under Title IV-D of the federal social security act if the child and custodian are not receiving public assistance;

(iii) A referral to superior court for an appropriate action under chapter ((~~26.26~~) 26.26A RCW; or

(iv) A referral to superior court for remedial sanctions under RCW 7.21.060.  
 (5) The department may advance the costs of genetic testing under this section.

(6) If an action is pending under chapter ~~((26.26))~~ 26.26A RCW, a judgment for reimbursement of the cost of genetic testing may be awarded under RCW ~~((26.26.570))~~ 26.26A.330.

(7) If no action is pending in superior court, the department may impose an obligation to reimburse costs of genetic testing according to rules adopted by the department to implement RCW 74.20A.056.

**Sec. 5051.** RCW 74.20A.030 and 2007 c 143 s 7 are each amended to read as follows:

(1) The department shall be subrogated to the right of any dependent child or children or person having the care, custody, and control of said child or children, if public assistance money is paid to or for the benefit of the child, or for the care and maintenance of a child, including a child with a developmental disability if the child has been placed into care as a result of an action under chapter 13.34 RCW, under a state-funded program, or a program funded under Title IV-A or IV-E of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the state of Washington to obtain reimbursement of moneys expended, based on the support obligation of the responsible parent established by a child support order. Distribution of any support moneys shall be made in accordance with RCW 26.23.035.

(2) The department may initiate, continue, maintain, or execute an action to establish, enforce, and collect a support obligation, including establishing ~~((paternity))~~ parentage and performing related services, under this chapter and chapter 74.20 RCW, or through the attorney general or prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21A, 26.23, ~~((or 26.26))~~ 26.26A, or 26.26B RCW or other appropriate statutes or the common law of this state, for so long as and under such conditions as the department may establish by regulation.

(3) Public assistance moneys shall be exempt from collection action under this chapter except as provided in RCW 74.20A.270.

(4) No collection action shall be taken against parents of children eligible for admission to, or children who have been discharged from, a residential habilitation center as defined by RCW 71A.10.020~~((§))~~ unless the child with a developmental disability is placed as a result of an action under chapter 13.34 RCW. The child support obligation shall be calculated pursuant to chapter 26.19 RCW.

**Sec. 5052.** RCW 74.20A.055 and 2018 c 150 s 107 are each amended to read as follows:

(1) The secretary may, if there is no order that establishes the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation or pursuant to an establishment of ~~((paternity))~~ parentage under chapter ~~((26.26))~~ 26.26A or 26.26B RCW, serve on the responsible parent or parents and custodial parent a notice and finding of financial responsibility

requiring the parents to appear and show cause in an adjudicative proceeding why the finding of responsibility and/or the amount thereof is incorrect, should not be finally ordered, but should be rescinded or modified. This notice and finding shall relate to the support debt accrued and/or accruing under this chapter and/or RCW 26.16.205, including periodic payments to be made in the future. The hearing shall be held pursuant to this section, chapter 34.05 RCW, the Administrative Procedure Act, and the rules of the department. A custodian who has physical custody of a child has the same rights that a custodial parent has under this section.

(2) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the responsible parent by certified mail, return receipt requested. The receipt shall be prima facie evidence of service. The notice shall be served upon the debtor within sixty days from the date the state assumes responsibility for the support of the dependent child or children on whose behalf support is sought. If the notice is not served within sixty days from such date, the department shall lose the right to reimbursement of payments made after the sixty-day period and before the date of notification: PROVIDED, That if the department exercises reasonable efforts to locate the debtor and is unable to do so the entire sixty-day period is tolled until such time as the debtor can be located. The notice may be served upon the custodial parent who is the nonassistance applicant or public assistance recipient by first-class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent.

(3) The notice and finding of financial responsibility shall set forth the amount the department has determined the responsible parent owes, the support debt accrued and/or accruing, and periodic payments to be made in the future. The notice and finding shall also include:

(a) A statement of the name of the custodial parent and the name of the child or children for whom support is sought;

(b) A statement of the amount of periodic future support payments as to which financial responsibility is alleged;

(c) A statement that the responsible parent or custodial parent may object to all or any part of the notice and finding, and file an application for an adjudicative proceeding to show cause why the terms set forth in the notice should not be ordered;

(d) A statement that, if neither the responsible parent nor the custodial parent files in a timely fashion an application for an adjudicative proceeding, the support debt and payments stated in the notice and finding, including periodic support payments in the future, shall be assessed and determined and ordered by the department and that this debt and amounts due under the notice shall be subject to collection action;

(e) A statement that the property of the debtor, without further advance notice or hearing, will be subject to lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, notice of payroll deduction or other collection action to satisfy the debt and enforce the support obligation established under the notice;

(f) A statement that one or both parents are responsible for either:

(i) Providing health care coverage for the child if accessible coverage that can cover the child:

(A) Is available through health insurance or public health care coverage; or

(B) Is or becomes available to the parent through that parent's employment or union; or

(ii) Paying a monthly payment toward the premium if no such coverage is available, as provided under RCW 26.09.105.

(4) A responsible parent or custodial parent who objects to the notice and finding of financial responsibility may file an application for an adjudicative proceeding within twenty days of the date of service of the notice or thereafter as provided under this subsection.

(a) If the responsible parent or custodial parent files the application within twenty days, the office of administrative hearings shall schedule an adjudicative proceeding to hear the parent's or parents' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application stays collection action pending the entry of a final administrative order;

(b) If both the responsible parent and the custodial parent fail to file an application within twenty days, the notice and finding shall become a final administrative order. The amounts for current and future support and the support debt stated in the notice are final and subject to collection, except as provided under (c) and (d) of this subsection;

(c) If the responsible parent or custodial parent files the application more than twenty days after, but within one year of the date of service, the office of administrative hearings shall schedule an adjudicative proceeding to hear the parent's or parents' objection and determine the support obligation for the entire period covered by the notice and finding of financial responsibility. The filing of the application does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action;

(d) If the responsible parent or custodial parent files the application more than one year after the date of service, the office of administrative hearings shall schedule an adjudicative proceeding at which the parent who requested the late hearing must show good cause for failure to file a timely application. The filing of the application does not stay future collection action and does not affect prior collection action:

(i) If the presiding officer finds that good cause exists, the presiding officer shall proceed to hear the parent's objection to the notice and determine the support obligation;

(ii) If the presiding officer finds that good cause does not exist, the presiding officer shall treat the application as a petition for prospective modification of the amount for current and future support established under the notice and finding. In the modification proceeding, the presiding officer shall set current and future support under chapter 26.19 RCW. The petitioning parent need show neither good cause nor a substantial change of circumstances to justify modification of current and future support;

(e) If the responsible parent's support obligation was based upon imputed median net income, the grant standard, or the family need standard, the division of child support may file an application for adjudicative proceeding more than twenty days after the date of service of the notice. The office of administrative

hearings shall schedule an adjudicative proceeding and provide notice of the hearing to the responsible parent and the custodial parent. The presiding officer shall determine the support obligation for the entire period covered by the notice, based upon credible evidence presented by the division of child support, the responsible parent, or the custodial parent, or may determine that the support obligation set forth in the notice is correct. The division of child support demonstrates good cause by showing that the responsible parent's support obligation was based upon imputed median net income, the grant standard, or the family need standard. The filing of the application by the division of child support does not stay further collection action, pending the entry of a final administrative order, and does not affect any prior collection action.

(f) The department shall retain and/or shall not refund support money collected more than twenty days after the date of service of the notice. Money withheld as the result of collection action shall be delivered to the department. The department shall distribute such money, as provided in published rules.

(5) If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility, if any, of the alleged responsible parent and shall also determine the amount of periodic payments to be made in the future, which amount is not limited by the amount of any public assistance payment made to or for the benefit of the child. If deviating from the child support schedule in making these determinations, the presiding or reviewing officer shall apply the standards contained in the child support schedule and enter written findings of fact supporting the deviation.

(6) If either the responsible parent or the custodial parent fails to attend or participate in the hearing or other stage of an adjudicative proceeding, upon a showing of valid service, the presiding officer shall enter an order of default against each party who did not appear and may enter an administrative order declaring the support debt and payment provisions stated in the notice and finding of financial responsibility to be assessed and determined and subject to collection action. The parties who appear may enter an agreed settlement or consent order, which may be different than the terms of the department's notice. Any party who appears may choose to proceed to the hearing, after the conclusion of which the presiding officer or reviewing officer may enter an order that is different than the terms stated in the notice, if the obligation is supported by credible evidence presented by any party at the hearing.

(7) The final administrative order establishing liability and/or future periodic support payments shall be superseded upon entry of a superior court order for support to the extent the superior court order is inconsistent with the administrative order.

(8) Debts determined pursuant to this section, accrued and not paid, are subject to collection action under this chapter without further necessity of action by a presiding or reviewing officer.

(9) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**Sec. 5053.** RCW 74.20A.056 and 2018 c 150 s 108 are each amended to read as follows:

~~(1) ((If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state registrar of vital statistics before July 1, 1997, the division of child support may serve a notice and finding of parental responsibility on him and the custodial parent. Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in subsections (8) and (9) of this section. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested, on the alleged father. The custodial parent shall be served by first-class mail to the last known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the state registrar of vital statistics, and shall state that:~~

~~(a) Either or both parents are responsible for providing health care coverage for their child either through health insurance or public health care coverage, which is accessible to the child, or through coverage that if coverage that can be extended to cover the child is or becomes available to the parent through employment or is union related, or for paying a monthly payment toward the premium if no such coverage is available, as provided under RCW 26.09.105;~~

~~(b) The alleged father or custodial parent may file an application for an adjudicative proceeding at which they both will be required to appear and show cause why the amount stated in the notice as to support is incorrect and should not be ordered;~~

~~(c) An alleged father or mother, if she is also the custodial parent, may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and~~

~~(d) If neither the alleged father nor the custodial parent requests that a blood or genetic test be administered or files an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under RCW 26.26.500 through 26.26.630 that the parent-child relationship does not exist.~~

~~(2) An alleged father or custodial parent who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department. A custodian who is not the parent of a child and who has physical custody of a child has the same notice and hearing rights that a custodial parent has under this section.~~

~~(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:~~

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(b) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father or the mother, if she is also the custodial parent, may request that a blood or genetic test be administered at any time. The request for testing shall be in writing, or as the department may specify by rule, and served on the division of child support. If a request for testing is made, the department shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's and mother's, if she is also the custodial parent, last known address.

(5) If the test excludes the alleged father from being a natural parent, the division of child support shall file a copy of the results with the state registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father or mother, if she is also the custodial parent, may, within twenty days after the date of receipt of the test results, request the division of child support to initiate an action under RCW 26.26.500 through 26.26.630 to determine the existence of the parent-child relationship. If the division of child support initiates a superior court action at the request of the alleged father or mother and the decision of the court is that the alleged father is a natural parent, the parent who requested the test shall be liable for court costs incurred.

(7) If the alleged father or mother, if she is also the custodial parent, does not request the division of child support to initiate a superior court action, or fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.500 through 26.26.630.

(8)(a) Subsections (1) through (7) of this section do not apply to acknowledgments of paternity filed with the state registrar of vital statistics after July 1, 1997.

(b)) (a) If an acknowledged ((father)) parent has signed an acknowledgment of ((paternity)) parentage that has been filed with the state registrar of vital statistics ((after July 1, 1997)):

(i) The division of child support may serve a notice and finding of financial responsibility under RCW 74.20A.055 based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of ((paternity)) parentage to the notice;

(ii) The notice shall include a statement that the acknowledged ((father)) parent or any other signatory may commence a proceeding in court to rescind or challenge the acknowledgment or denial of ((paternity)) parentage under RCW ((26.26.330)) 26.26A.235 and ((26.26.335)) 26.26A.240;

(iii) A statement that either or both parents are responsible for providing health care coverage for the child if accessible coverage that can be extended to



cover the child is or becomes available to the parent through employment or is union-related as provided under RCW 26.09.105; and

(iv) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order.

~~((e))~~ (b) If neither the acknowledged ~~((father))~~ parent nor the other party to the notice files an application for an adjudicative proceeding or the signatories to the acknowledgment or denial do not commence a proceeding to rescind or challenge the acknowledgment of ~~((paternity))~~ parentage, the amount of support stated in the notice and finding of financial responsibility becomes final, subject only to a subsequent determination under RCW ~~((26.26.500))~~ 26.26A.400 through ~~((26.26.630))~~ 26.26A.515 that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or RCW 74.20A.055, even if a court later determines that the acknowledgment is void.

~~((d))~~ (c) An acknowledged ~~((father))~~ parent or other party to the notice who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged ~~((father))~~ genetic parent is later found not to be a responsible parent.

~~((e))~~ (d) If neither the acknowledged ~~((father))~~ parent nor the custodial parent requests an adjudicative proceeding, or if no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW ~~((26.26.500))~~ 26.26A.400 through ~~((26.26.630))~~ 26.26A.515.

~~((9))~~ (2) Acknowledgments of ~~((paternity that are filed after July 1, 1997,))~~ parentage are subject to requirements of chapters ~~((26.26, the uniform parentage act))~~ 26.26A, 26.26B, and 70.58 RCW.

~~((10))~~ (3) The department and the department of health may adopt rules to implement the requirements under this section.

~~((11))~~ (4) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department

has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Passed by the Senate February 13, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 47

[Substitute Senate Bill 5355]

### LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS--PERS TO LEOFF PENSION SERVICE CREDIT TRANSFER

AN ACT Relating to recovering service credit withdrawn from the public employees' retirement system for certain law enforcement officers and firefighters; and creating a new section.

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

**NEW SECTION. Sec. 1.** (1) Any current or former law enforcement officers or firefighters, who are or were employed by a department of retirement systems covered employer, may transfer service credit they earned as law enforcement officers or firefighters in the public employees' retirement system to the law enforcement officers' and firefighters' retirement system plan 2 by irrevocable election, if they:

(a) Were excluded from membership in the law enforcement officers' and firefighters' retirement system plan 1 due solely to failure to successfully meet the minimum medical and health standards provided by RCW 41.26.045;

(b) Were previously excluded from membership in the public employees' retirement system under RCW 41.26.045;

(c) Were subsequently enrolled into the public employees' retirement system after chapter 298, Laws of 1994 amended the definition of "member" under RCW 41.40.010 to clarify RCW 41.26.045; and

(d) Separated from employment before paying back past contributions owed; withdrew their contributions; and if there is no record of the department of retirement systems providing the member with an estimate of their option to complete repayment via an actuarial reduction to their pension.

(2) The election under subsection (1) of this section must be made by July 1, 2020, and must be filed in writing with the department of retirement systems and any benefit is effective prospectively from the month the application is received by the department of retirement systems.

(3) Members electing to become a member of the law enforcement officers' and firefighters' retirement system plan 2 under subsection (1) of this section must pay all member contributions owed, without interest, through taking an actuarial reduction to their ongoing benefit or making a lump sum payment at the time of their election.

(4) If a member elects to become a member of the law enforcement officers' and firefighters' retirement system plan 2 under subsection (1) of this section, any employer contribution payments made to the public employees' retirement system by the member's former employer or employers for the member's applicable service credit must be transferred to the law enforcement officers' and firefighters' system plan 2 retirement fund established in RCW 41.50.075.

Neither the employer nor the member are required to pay any difference between the public employees' retirement system employer contributions paid and the law enforcement officers' and firefighters' retirement system plan 2 employer contributions.

Passed by the Senate March 7, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 48

[Substitute Senate Bill 5386]

### TELEMEDICINE TRAINING

AN ACT Relating to training standards in providing telemedicine services; and adding a new section to chapter 43.70 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The legislature finds that a large segment of Washington residents do not have access to critical health care services. Telemedicine is a way to increase access to health care services to those who would otherwise not have reasonable access. The legislature therefore intends to ensure that health care professionals who provide services through telemedicine, as defined in RCW 70.41.020, in cities and rural areas alike, have current information available, making it possible for them to provide telemedicine services to the entire state of Washington.

(2) Beginning January 1, 2020, a health care professional who provides clinical services through telemedicine may complete a telemedicine training. By January 1, 2020, the telemedicine collaborative shall make a telemedicine training available on its web site for use by health care professionals who use telemedicine technology. If a health care professional completes the training, the health care professional shall sign and retain an attestation. The training:

(a) Must include information on current state and federal law, liability, informed consent, and other criteria established by the collaborative for the advancement of telemedicine, in collaboration with the department and the Washington state medical quality assurance commission;

(b) Must include a question and answer methodology to demonstrate accrual of knowledge; and

(c) May be made available in electronic format and completed over the internet.

(3) The training may be incorporated into existing telemedicine training programs, provided that the training meets the requirements in subsection (2) of this section.

(4) For purposes of this section, a "health care professional" means a person licensed, registered, or certified to provide health services.

Passed by the Senate March 4, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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**CHAPTER 49**

[Senate Bill 5387]

**PHYSICIAN CREDENTIALING--TELEMEDICINE SERVICES**

AN ACT Relating to physician credentialing in telemedicine services; and amending RCW 70.41.230.

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

**Sec. 1.** RCW 70.41.230 and 2016 c 68 s 6 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Except as provided in subsection (3) of this section, prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) In lieu of the requirements of subsections (1) and (2) of this section, when granting or renewing credentials and privileges or association of any physician providing telemedicine or store and forward services, an originating site hospital may rely on a distant site hospital's decision to grant or renew credentials and clinical privileges or association of the physician if the originating site hospital obtains reasonable assurances, through a written agreement with the distant site hospital, that all of the following provisions are met:

(a) The distant site hospital providing the telemedicine or store and forward services is a medicare participating hospital;

(b) Any physician providing telemedicine or store and forward services at the distant site hospital will be fully credentialed and privileged to provide such services by the distant site hospital;

(c) Any physician providing telemedicine or store and forward services will hold and maintain a valid license to perform such services issued or recognized by the state of Washington; and

(d) With respect to any distant site physician who holds current credentials and privileges at the originating site hospital whose patients are receiving the telemedicine or store and forward services, the originating site hospital has evidence of an internal review of the distant site physician's performance of these credentials and privileges and sends the distant site hospital such performance information for use in the periodic appraisal of the distant site physician. At a minimum, this information must include all adverse events, as defined in RCW 70.56.010, that result from the telemedicine or store and forward services provided by the distant site physician to the originating site hospital's patients and all complaints the originating site hospital has received about the distant site physician.

(4) The medical quality assurance commission or the board of osteopathic medicine and surgery shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(5) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) through (3) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(6) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(7) Hospitals shall be granted access to information held by the medical quality assurance commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(8) Violation of this section shall not be considered negligence per se.

Passed by the Senate February 25, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

## CHAPTER 50

[Senate Bill 5398]

## UNEMPLOYMENT BENEFITS JOB SEARCH REQUIREMENT--APPRENTICES

AN ACT Relating to unemployment benefit eligibility for apprentices; amending RCW 50.20.010, 50.20.230, and 50.20.240; and creating a new section.

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

**Sec. 1.** RCW 50.20.010 and 2006 c 13 s 10 are each amended to read as follows:

(1) An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that:

(a) He or she has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commissioner finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(b) He or she has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(c) He or she is able to work, and is available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted.

~~(i) ((With respect to claims that have an effective date before January 4, 2004, to be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents.~~

~~(ii) With respect to claims that have an effective date on or after January 4, 2004,) To be available for work, an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the applicable agreement or rules.~~

(i) For the purposes of this subsection, "customary trade practices" includes compliance with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council;

(d) He or she has been unemployed for a waiting period of one week;

(e) He or she participates in reemployment services if the individual has been referred to reemployment services pursuant to the profiling system established by the commissioner under RCW 50.20.011, unless the commissioner determines that:

(i) The individual has completed such services; or

(ii) There is justifiable cause for the claimant's failure to participate in such services; and

(f) As to weeks beginning after March 31, 1981, which fall within an extended benefit period as defined in RCW 50.22.010, the individual meets the terms and conditions of RCW 50.22.020 with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

(2) An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

**Sec. 2.** RCW 50.20.230 and 1998 c 161 s 3 are each amended to read as follows:

The employment security department will ensure that within a reasonably short period of time after the initiation of benefits, all unemployment insurance claimants, except those with employer attachment, union referral, individuals complying with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, in commissioner-approved training, or the subject of antiharassment orders, register for job search in an electronic labor exchange system that supports direct employer access for the purpose of selecting job applicants.

**Sec. 3.** RCW 50.20.240 and 2006 c 13 s 16 are each amended to read as follows:

(1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, the employment security department shall implement a job search monitoring program. ~~((Effective January 4, 2004,))~~ The department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the requirements of this section. The department may use interactive voice technology and other electronic means to ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

(b) Except for those individuals with employer attachment or union referral, individuals complying with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, individuals who qualify for unemployment compensation under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed. ~~((With regard to claims with an effective date before January 4, 2004, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activity at the local reemployment center. With regard to claims with an effective date on or after January 4, 2004,))~~ The evidence must demonstrate contacts with at least three employers per week



or documented in-person job search activities at the local reemployment center at least three times per week.

(c) In developing the requirements for the job search monitoring program, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

(2) ~~((Effective January 4, 2004,))~~ An individual who fails to comply fully with the requirements for actively seeking work under RCW 50.20.010 shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW 50.20.190.

NEW SECTION, Sec. 4. Sections 1 through 3 of this act apply to claimed weeks of unemployment on or after July 5, 2020.

Passed by the Senate March 4, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 51

[Engrossed Substitute Senate Bill 5480]

### REAL ESTATE APPRAISERS--RENEWAL OF CERTIFICATES, LICENSES, AND REGISTRATIONS

AN ACT Relating to the renewal of real estate appraiser certificates, licenses, and registrations; amending RCW 18.140.130, 18.140.060, 18.140.160, and 18.140.280; and providing an effective date.

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

**Sec. 1.** RCW 18.140.130 and 2005 c 339 s 10 are each amended to read as follows:

(1) Each original and renewal certificate, license, or registration issued under this chapter shall expire on the applicant's second birthday following issuance of the certificate, license, or registration.

(2) To be renewed as a state-certified or state-licensed real estate appraiser or state-registered appraiser trainee, the holder of a valid certificate, license, or registration shall apply and pay the prescribed fee to the director no earlier than one hundred twenty days prior to the expiration date of the certificate, license, or registration and shall demonstrate satisfaction of any continuing education requirements.

(3) If a person fails to renew a certificate, license, or registration prior to its expiration and no more than one year has passed since the person last held a valid certificate, license, or registration, the person may obtain a renewal certificate, license, or registration by satisfying all of the requirements for renewal and paying late renewal fees.

~~((The director shall cancel the certificate, license, or registration of any person whose renewal fee is not received within one year from the date of expiration. A person may obtain a new certificate, license, or registration by satisfying the procedures and qualifications for initial certification, licensure, or registration, including the successful completion of any applicable examinations.))~~

(4)(a) If a person's certificate, or license is not renewed within one year after the expiration date of the certificate or license, the director must place the certificate or license in inactive status.

(b) A state-licensed real estate appraiser, state-certified residential real estate appraiser, or state-certified general real estate appraiser whose certificate or license is placed in inactive status may, within eight years of placement in inactive status, apply for reinstatement of the certificate or license if he or she has:

(i) Maintained continuing education requirements while inactive;

(ii) Successfully completed the uniform standards of professional appraisal practice fifteen-hour class within one hundred eighty days before reinstatement; and

(iii) Paid a fee established by the director.

(c) A state-registered trainee real estate appraiser registration that has expired may not be reinstated. The trainee must reapply with the director for a new registration and pay a fee established by the director. Any required class hours, as provided in rule, taken to acquire the registration remains acceptable for a period of five years from the date class hours were taken and will not be required to be retaken, except that if the uniform standards class hours are more than two years from the date of the application for reinstatement, those class hours must be retaken.

(d) The director must cancel a license or certificate that is not renewed or reinstated within eight years of that license or certificate's expiration.

**Sec. 2.** RCW 18.140.060 and 2005 c 339 s 5 are each amended to read as follows:

(1) Applications for examinations, original certification, licensure, or registration, ~~((and))~~ renewal certification, licensure, or registration ~~((shall)), and the reinstatement of a certificate, license, or registration must~~ be made in writing to the department on forms approved by the director. Applications for original and renewal certification, licensure, or registration ~~((shall)) or the reinstatement of a certificate or license must~~ include a statement confirming that the applicant ~~((shall comply)) is in compliance~~ with applicable rules and regulations and that the applicant understands the penalties for misconduct.

(2) The appropriate fees ~~((shall)) must~~ accompany all applications for examination, reexamination, original certification, licensure, or registration, ~~((and)) renewal certification, licensure, or registration, and the reinstatement of a certificate or license.~~

**Sec. 3.** RCW 18.140.160 and 2007 c 256 s 1 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action for the following conduct, acts, or conditions:

(1) Failing to meet the minimum qualifications for state certification, licensure, or registration established by or pursuant to this chapter;

(2) Paying money other than the fees provided for by this chapter to any employee of the director or the commission to procure state certification, licensure, or registration under this chapter;

(3) Continuing to act as a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee when his or her certificate, license, or registration is on an expired or inactive status;

(4) Violating any provision of this chapter or any lawful rule made by the director pursuant thereto;

(5) Issuing an appraisal report on any real property in which the appraiser has an interest unless his or her interest is clearly stated in the appraisal report;

(6) Being affiliated as an employer, independent contractor, or supervisory appraiser of a state-certified real estate appraiser, state-licensed real estate appraiser, or state-registered appraiser trainee whose certification, license, or registration is currently in a suspended or revoked status;

(7) Failure or refusal without good cause to exercise reasonable diligence in performing an appraisal practice under this chapter, including preparing an oral or written report to communicate information concerning an appraisal practice; and

(8) Negligence or incompetence in performing an appraisal practice under this chapter, including preparing an oral or written report to communicate information concerning an appraisal practice.

**Sec. 4.** RCW 18.140.280 and 2005 c 339 s 21 are each amended to read as follows:

(1) The director may issue an original registration as a state-registered trainee real estate appraiser, to be valid for a term not exceeding two years together with a maximum of two renewals, which must be completed within seven years from the original date of registration, unless either period is interrupted by service in the armed forces of the United States of America. Only one of the renewals under this subsection may be issued if the trainee has failed to meet qualification standards necessary to take the written examination under RCW 18.140.100.

(2) A trainee real estate appraiser may not provide appraisal services other than through and under the direct supervision of a state-certified general real estate appraiser or a state-certified residential real estate appraiser.

**NEW SECTION. Sec. 5.** This act takes effect September 1, 2020.

Passed by the Senate February 27, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 52

[Senate Bill 5622]

### COMMISSIONERS OF COURTS OF LIMITED JURISDICTION

AN ACT Relating to commissioners of courts of limited jurisdiction; and amending RCW 3.50.075 and 26.04.050.

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

**Sec. 1.** RCW 3.50.075 and 2008 c 227 s 8 are each amended to read as follows:

(1) One or more court commissioners may be appointed by a judge of the municipal court.

(2) Each commissioner holds office at the pleasure of the appointing judge.

(3) Except as provided in subsection (4) of this section, a commissioner ~~((authorized to hear or dispose of cases))~~ has such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess, and must be a lawyer who is admitted to practice law in the state of Washington or a nonlawyer who has passed, by January 1, 2003, the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.

(4) On or after July 1, 2010, when serving as a commissioner, the commissioner does not have authority to preside over trials in criminal matters, or jury trials in civil matters unless agreed to on the record by all parties.

(5) A commissioner need not be a resident of the city or of the county in which the municipal court is created. When a court commissioner has not been appointed and the municipal court is presided over by a part-time appointed judge, the judge need not be a resident of the city or of the county in which the municipal court is created.

**Sec. 2.** RCW 26.04.050 and 2017 c 130 s 1 are each amended to read as follows:

The following named officers and persons, active or retired, are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, supreme court commissioners, court of appeals commissioners, superior court commissioners, judges and commissioners of courts of limited jurisdiction as defined in RCW 3.02.010, judges of tribal courts from a federally recognized tribe, and any regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization. The solemnization of a marriage by a tribal court judge pursuant to authority under this section does not create tribal court jurisdiction and does not affect state court authority as otherwise provided by law to enter a judgment for purposes of any dissolution, legal separation, or other proceedings related to the marriage that is binding on the parties and entitled to full faith and credit.

Passed by the Senate February 26, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 53

[Substitute Senate Bill 5627]

### HANFORD SITE--HEALTHY ENERGY WORK GROUP

AN ACT Relating to creating the healthy energy work group to develop the healthy energy workers board; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** (1) Subject to the availability of amounts appropriated for this specific purpose, the healthy energy work group is created. The purpose of the work group is to develop the healthy energy workers board to address chemical exposure to tank farm vapors at the Hanford site.

(2) The University of Washington department of environmental and occupational health sciences shall provide administrative support to the healthy

energy work group, including making arrangements for the initial meeting of the work group and subsequent meetings. The first meeting shall be in person and subsequent meetings may be convened over audio and/or video conferencing. In addition to the initial meetings, the work group shall meet no less than four times and no more than six times in 2019.

(3) The healthy energy work group is composed of the following members, who must be appointed by the governor:

(a) The director of the department of labor and industries, or the director's designee;

(b) The state secretary of health, or the secretary's designee;

(c) An individual representing Harborview medical center;

(d) An individual representing the University of Washington department of environmental and occupational health sciences;

(e) An individual representing the United States department of energy Richland operations office;

(f) A training director for construction safety and health at the volpentest hazardous materials management and emergency response federal training facility in Richland, Washington;

(g) An individual representing the central Washington building construction trades council;

(h) An individual representing the Hanford atomic metal trades council;

(i) An individual representing the Washington state building and construction trades council; and

(j) An individual representing UA local 598 plumbers and steamfitters.

(4) The healthy energy work group shall provide a report to the appropriate committees of the legislature by December 1, 2019, regarding the development of the healthy energy workers board, including recommendations for the membership and any draft legislation.

(5) The healthy energy work group is a class one group under RCW 43.03.220.

(6) This section expires December 31, 2019.

Passed by the Senate March 4, 2019.

Passed by the House April 1, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 54

[Substitute Senate Bill 5710]

### COOPER JONES ACTIVE TRANSPORTATION SAFETY COUNCIL

AN ACT Relating to the Cooper Jones active transportation safety council; amending RCW 43.59.155; repealing RCW 43.59.150 and 43.59.160; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 43.59.155 and 2015 c 243 s 1 are each amended to read as follows:

(1) Within amounts appropriated to the traffic safety commission, the commission must convene (~~(a pedestrian)~~) the Cooper Jones active

transportation safety ((advisory)) council comprised of stakeholders who have a unique interest or expertise in the safety of pedestrians, bicyclists, and ((road safety)) other nonmotorists.

(2) The purpose of the council is to review and analyze data and programs related to ((pedestrian)) fatalities and serious injuries involving pedestrians, bicyclists, and other nonmotorists to identify points at which the transportation system can be improved including, whenever possible, privately owned areas of the system such as parking lots, and to identify patterns in pedestrian, bicyclist, and other nonmotorist fatalities and serious injuries. The council may also:

(a) Monitor progress on implementation of existing council recommendations; and

(b) Seek opportunities to expand consideration and implementation of the principles of systematic safety, including areas where data collection may need improvement.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

((ii)) (ii) A coroner from the county in which ((the most)) pedestrian, bicyclist, or nonmotorist deaths have occurred;

((iii)) ((A representative from the Washington association of sheriffs and police chiefs;

((iv)) (iv) Multiple members of law enforcement who have investigated pedestrian, bicyclist, or nonmotorist fatalities;

((v)) (v) A traffic engineer;

((vi)) (vi) A representative from the department of transportation and a representative from the department of health;

((vii)) (vii) A representative from the association of Washington cities((; and up to two stakeholders, chosen by the council, who represent municipalities in which at least one pedestrian fatality has occurred in the previous three years)); ((and

((viii)) (viii) A representative from the Washington state association of counties;

((ix)) (ix) A representative from a pedestrian advocacy group; and

((x)) (x) A representative from a bicyclist or other nonmotorist advocacy group.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1st on a biennial basis.

(5) As part of the review of pedestrian, bicyclist, or nonmotorist fatalities and serious injuries that occur in Washington, the council may review any available information, including ((accident)) crash information maintained in existing databases; statutes, rules, policies, or ordinances governing pedestrians

and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve pedestrian, bicyclist, or nonmotorist safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality, including crashes that occur in privately owned property such as parking lots. The council may consult with local cities and counties, as well as, local police departments and other law enforcement agencies and associations representing those jurisdictions on how to improve data quality regarding crashes occurring on private property.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However, recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving pedestrian, bicyclist, or nonmotorist safety in accordance with recommendations made by the council.

(10) ~~(By December 1, 2018, the council must report to the transportation committees of the legislature on the strategies that have been deployed to improve pedestrian safety by the council and make a recommendation as to~~

~~whether the council should be continued and if there are any improvements the legislature can make to improve the council.~~

~~(14))~~ For purposes of this section:

(a) "Bicyclist fatality" means any death of a bicyclist resulting from a collision, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(b) "Council" means the ~~((pedestrian))~~ Cooper Jones active transportation safety ((advisory)) council.

~~((b))~~ (c) "Nonmotorist" means anyone using the transportation system who are not in a vehicle.

(d) "Pedestrian fatality" means any death of a pedestrian resulting from a collision ~~((with a vehicle))~~, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

~~((e))~~ (e) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

~~((12) This section expires June 30, 2019.)~~

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) RCW 43.59.150 (Bicycle and pedestrian safety—Committee) and 2005 c 426 s 6; and

(2) RCW 43.59.160 (Cooper Jones bicyclist safety advisory council) and 2017 c 324 s 2.

\*NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

*\*Sec. 3 was vetoed. See message at end of chapter.*

Passed by the Senate March 5, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 18, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Substitute Senate Bill No. 5710 entitled:

"AN ACT Relating to the Cooper Jones active transportation safety council."

I am vetoing Section 3, the emergency clause, because it is not necessary. The new council created by the bill has no plans to convene before August 2019. Vetoing Section 3 of the bill in no way diminishes the bill's overall traffic safety goals.

For these reasons I have vetoed Section 3 of Substitute Senate Bill No. 5710.

With the exception of Section 3, Substitute Senate Bill No. 5710 is approved."



## CHAPTER 55

[Senate Bill 5764]

MEDICAL QUALITY ASSURANCE COMMISSION--RENAMING AS WASHINGTON  
MEDICAL COMMISSION

AN ACT Relating to changing the name of the medical quality assurance commission to the Washington medical commission; amending RCW 18.50.115, 18.71.002, 18.71.010, 18.71.015, 18.71A.010, 18.71A.020, 18.130.040, 18.360.030, 69.41.030, 69.50.402, 69.51A.300, 70.41.200, 70.41.230, 70.230.080, 70.230.130, 70.230.140, 74.09.290, and 74.42.230; and reenacting and amending RCW 69.45.010 and 69.50.101.

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

**Sec. 1.** RCW 18.50.115 and 2013 c 19 s 1 are each amended to read as follows:

A midwife licensed under this chapter may obtain and administer prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho immune globulin (human), and local anesthetic and may administer such other drugs or medications as prescribed by a physician. A pharmacist who dispenses such drugs to a licensed midwife shall not be liable for any adverse reactions caused by any method of use by the midwife.

The secretary, after consultation with representatives of the midwife advisory committee, the pharmacy quality assurance commission, and the Washington medical (~~(quality assurance)~~) commission, may adopt rules that authorize licensed midwives to purchase and use legend drugs and devices in addition to the drugs authorized in this chapter.

**Sec. 2.** RCW 18.71.002 and 1994 sp.s. c 9 s 301 are each amended to read as follows:

It is the purpose of the (~~(medical quality assurance)~~) commission to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state of Washington.

**Sec. 3.** RCW 18.71.010 and 2018 c 211 s 1 are each amended to read as follows:

The (~~(following terms used in this chapter shall have the meanings set forth)~~) definitions in this section apply throughout this chapter unless the context clearly (~~(indicates)~~) requires otherwise(~~(-)~~).

(1) "Commission" means the Washington (~~(state)~~) medical (~~(quality assurance)~~) commission.

(2) "Emergency medical care" or "emergency medical service" has the same meaning as in chapter 18.73 RCW.

(3) "Maintenance of certification" means the satisfactory participation in a formal recertification program to maintain board certification after initial certification from the American board of medical specialties or other accrediting organization recognized by the commission.

(4) "Resident physician" means an individual who has graduated from a school of medicine which meets the requirements set forth in RCW 18.71.055 and is serving a period of postgraduate clinical medical training sponsored by a

college or university in this state or by a hospital accredited by this state. For purposes of this chapter, the term ~~((shall))~~ includes individuals designated as intern or medical fellow.

(5) "Secretary" means the secretary of health.

**Sec. 4.** RCW 18.71.015 and 2006 c 8 s 103 are each amended to read as follows:

The Washington ~~((state))~~ medical ~~((quality assurance))~~ commission is established, consisting of thirteen individuals licensed to practice medicine in the state of Washington under this chapter, two individuals who are licensed as physician assistants under chapter 18.71A RCW, and six individuals who are members of the public. At least two of the public members shall not be from the health care industry. Each congressional district now existing or hereafter created in the state must be represented by at least one physician member of the commission. The terms of office of members of the commission are not affected by changes in congressional district boundaries. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

The members of the commission shall be appointed by the governor. Members of the initial commission may be appointed to staggered terms of one to four years, and thereafter all terms of appointment shall be for four years. The governor shall consider such physician and physician assistant members who are recommended for appointment by the appropriate professional associations in the state. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the existing members of the board of medical examiners and medical disciplinary board repealed under section 336, chapter 9, Laws of 1994 sp. sess. be appointed to the commission. No member may serve more than two consecutive full terms. Each member shall hold office until a successor is appointed.

Each member of the commission must be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The commission shall meet as soon as practicable after appointment and elect officers each year. Meetings shall be held at least four times a year and at such place as the commission determines and at such other times and places as the commission deems necessary. A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business.

The affirmative vote of a majority of a quorum of the commission is required to carry any motion or resolution, to adopt any rule, or to pass any measure. The commission may appoint panels consisting of at least three members. A quorum for the transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.265 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the commission in accordance with RCW

43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of health.

Whenever the governor is satisfied that a member of a commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

Vacancies in the membership of the commission shall be filled for the unexpired term by appointment by the governor.

The members of the commission are immune from suit in an action, civil or criminal, based on its disciplinary proceedings or other official acts performed in good faith as members of the commission.

Whenever the workload of the commission requires, the commission may request that the secretary appoint pro tempore members of the commission. When serving, pro tempore members of the commission have all of the powers, duties, and immunities, and are entitled to all of the emoluments, including travel expenses, of regularly appointed members of the commission.

**Sec. 5.** RCW 18.71A.010 and 1994 sp.s. c 9 s 318 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Physician assistant" means a person who is licensed by the commission to practice medicine to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(2) "Commission" means the Washington medical ~~((quality assurance))~~ commission.

(3) "Practice medicine" has the meaning defined in RCW 18.71.011.

(4) "Secretary" means the secretary of health or the secretary's designee.

(5) "Department" means the department of health.

**Sec. 6.** RCW 18.71A.020 and 2015 c 252 s 9 are each amended to read as follows:

(1) The commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the commission and within one year successfully take and pass an examination approved by the commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. An interim permit may be granted by the department of health for one year provided the applicant meets all other requirements. Physician assistants licensed by the board of medical examiners, or the ~~((medical quality assurance))~~ commission as of July 1, 1999, shall continue to be licensed.

(2)(a) The commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and

(ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the commission on a form prepared by the secretary with the approval of the commission, detailing the education, training, and experience of the physician assistant and such other information as the commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250 and 43.70.280. A surcharge of fifty dollars per year shall be charged on each license renewal or issuance of a new license to be collected by the department and deposited into the impaired physician account for physician assistant participation in the impaired physician program. Each applicant shall furnish proof satisfactory to the commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the commission and is eligible to take the examination approved by the commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4)(a) The commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW.

(b) The license shall be renewed as determined under RCW 43.70.250 and 43.70.280. The commission shall request licensees to submit information about their current professional practice at the time of license renewal and licensees must provide the information requested. This information may include practice setting, medical specialty, or other relevant data determined by the commission.

(c) The commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

(5) All funds in the impaired physician account shall be paid to the contract entity within sixty days of deposit.

**Sec. 7.** RCW 18.130.040 and 2017 c 336 s 18 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

- (iii) Ocularists licensed under chapter 18.55 RCW;
  - (iv) Massage therapists and businesses licensed under chapter 18.108 RCW;
  - (v) Dental hygienists licensed under chapter 18.29 RCW;
  - (vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;
  - (vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;
  - (viii) Respiratory care practitioners licensed under chapter 18.89 RCW;
  - (ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;
  - (x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—-independent clinical under chapter 18.225 RCW;
  - (xi) Persons registered as nursing pool operators under chapter 18.52C RCW;
  - (xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;
  - (xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;
  - (xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;
  - (xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;
  - (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;
  - (xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;
  - (xviii) Surgical technologists registered under chapter 18.215 RCW;
  - (xix) Recreational therapists under chapter 18.230 RCW;
  - (xx) Animal massage therapists certified under chapter 18.240 RCW;
  - (xxi) Athletic trainers licensed under chapter 18.250 RCW;
  - (xxii) Home care aides certified under chapter 18.88B RCW;
  - (xxiii) Genetic counselors licensed under chapter 18.290 RCW;
  - (xxiv) Reflexologists certified under chapter 18.108 RCW;
  - (xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, forensic phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and
  - (xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.380 RCW.
- (b) The boards and commissions having authority under this chapter are as follows:
- (i) The podiatric medical board as established in chapter 18.22 RCW;
  - (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
  - (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;
  - (iv) The board of hearing and speech as established in chapter 18.35 RCW;
  - (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The Washington medical (~~(quality assurance)~~) commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW;

(xv) The board of naturopathy established in chapter 18.36A RCW; and

(xvi) The board of denturists established in chapter 18.30 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

**Sec. 8.** RCW 18.360.030 and 2017 c 336 s 16 are each amended to read as follows:

(1) The secretary shall adopt rules specifying the minimum qualifications for a medical assistant-certified, medical assistant-hemodialysis technician, medical assistant-phlebotomist, and forensic phlebotomist.

(a) The qualifications for a medical assistant-hemodialysis technician must be equivalent to the qualifications for hemodialysis technicians regulated pursuant to chapter 18.135 RCW as of January 1, 2012.

(b) The qualifications for a forensic phlebotomist must include training consistent with the occupational safety and health administration guidelines and must include between twenty and thirty hours of work in a clinical setting with the completion of more than one hundred successful venipunctures. The secretary may not require more than forty hours of classroom training for initial training, which may include online preclass homework.

(2) The secretary shall adopt rules that establish the minimum requirements necessary for a health care practitioner, clinic, or group practice to endorse a medical assistant as qualified to perform the duties authorized by this chapter and be able to file an attestation of that endorsement with the department.

(3) The Washington medical (~~(quality assurance)~~) commission, the board of osteopathic medicine and surgery, the podiatric medical board, the nursing care quality assurance commission, the board of naturopathy, and the optometry

board shall each review and identify other specialty assistive personnel not included in this chapter and the tasks they perform. The department of health shall compile the information from each disciplining authority listed in this subsection and submit the compiled information to the legislature no later than December 15, 2012.

**Sec. 9.** RCW 69.41.030 and 2018 c 196 s 22 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical (~~quality assurance~~) commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

**Sec. 10.** RCW 69.45.010 and 2013 c 19 s 81 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Commission" means the pharmacy quality assurance commission.

(2) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(8) "Legend drug" means any drug that is required by state law or by regulations of the commission to be dispensed on prescription only or is restricted to use by practitioners only.

(9) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(10) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

(11) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(12) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized to prescribe by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, or a physician assistant under



chapter 18.71A RCW when authorized by the Washington medical ((quality assurance)) commission.

(13) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

(14) "Secretary" means the secretary of health or the secretary's designee.

**Sec. 11.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(d) "CBD product" means any product containing or consisting of cannabidiol.

(e) "Commission" means the pharmacy quality assurance commission.

(f) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include industrial hemp as defined in RCW 15.120.010.

(g)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(h) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(i) "Department" means the department of health.

(j) "Designated provider" has the meaning provided in RCW 69.51A.010.

(k) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(l) "Dispenser" means a practitioner who dispenses.

(m) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(n) "Distributor" means a person who distributes.

(o) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(p) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(q) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(r) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(s) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(t) "Isomer" means an optical isomer, but in subsection (ff)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(u) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(v) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(w) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(x) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Industrial hemp as defined in RCW 15.120.010.

(y) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(z) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(aa) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(bb) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(cc) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(dd) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(ee) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (x) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(ff) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(gg) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(hh) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(ii) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(jj) "Plant" has the meaning provided in RCW 69.51A.010.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical (~~quality assurance~~) commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(mm) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(nn) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(oo) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(pp) "Recognition card" has the meaning provided in RCW 69.51A.010.

(qq) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(rr) "Secretary" means the secretary of health or the secretary's designee.

(ss) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(tt) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(uu) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(vv) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

**Sec. 12.** RCW 69.50.402 and 2016 c 150 s 1 are each amended to read as follows:

(1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the commission pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the commission pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy, or for the treatment of hyperkinesia, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the treatment of any other disease states or conditions for which the United States food and drug administration has approved an indication, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the commission before the investigation has been begun: PROVIDED, That the commission, in consultation with the Washington medical (~~(quality assurance)~~) commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the commission of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the Washington medical (~~(quality assurance)~~) commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to

by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

**Sec. 13.** RCW 69.51A.300 and 2015 c 70 s 38 are each amended to read as follows:

The board of naturopathy, the board of osteopathic medicine and surgery, the Washington medical (~~(quality assurance)~~) commission, and the nursing care quality assurance commission shall develop and approve continuing education programs related to the use of marijuana for medical purposes for the health care providers that they each regulate that are based upon practice guidelines that have been adopted by each entity.

**Sec. 14.** RCW 70.41.200 and 2013 c 301 s 2 are each amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of one or more quality improvement committees with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. Different quality improvement committees may be established as a part of a quality improvement program to review different health care services. Such committees shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A process, including a medical staff privileges sanction procedure which must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of the medical staff through which credentials, physical and mental capacity, professional conduct, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) A process for the periodic review of the credentials, physical and mental capacity, professional conduct, and competence in delivering health care services of all other health care providers who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients including health care-associated infections as defined in RCW 43.70.056, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, infection control, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is



located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The Washington medical (~~(quality assurance)~~) commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department, the joint commission on accreditation of health care organizations, and any other accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of hospitals. Information so obtained shall not be subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each hospital shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510, a coordinated quality improvement committee maintained by an ambulatory surgical facility under RCW 70.230.070, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and 4.24.250.

(9) A hospital that operates a nursing home as defined in RCW 18.51.010 may conduct quality improvement activities for both the hospital and the nursing home through a quality improvement committee under this section, and such activities shall be subject to the provisions of subsections (2) through (8) of this section.

(10) Violation of this section shall not be considered negligence per se.

**Sec. 15.** RCW 70.41.230 and 2016 c 68 s 6 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Except as provided in subsection (3) of this section, prior to granting privileges or association to any physician or hiring a physician, a hospital or

facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) In lieu of the requirements of subsections (1) and (2) of this section, when granting or renewing privileges or association of any physician providing telemedicine or store and forward services, an originating site hospital may rely on a distant site hospital's decision to grant or renew clinical privileges or association of the physician if the originating site hospital obtains reasonable assurances, through a written agreement with the distant site hospital, that all of the following provisions are met:

(a) The distant site hospital providing the telemedicine or store and forward services is a medicare participating hospital;

(b) Any physician providing telemedicine or store and forward services at the distant site hospital will be fully privileged to provide such services by the distant site hospital;

(c) Any physician providing telemedicine or store and forward services will hold and maintain a valid license to perform such services issued or recognized by the state of Washington; and

(d) With respect to any distant site physician who holds current privileges at the originating site hospital whose patients are receiving the telemedicine or store and forward services, the originating site hospital has evidence of an internal review of the distant site physician's performance of these privileges and sends the distant site hospital such performance information for use in the periodic appraisal of the distant site physician. At a minimum, this information must include all adverse events, as defined in RCW 70.56.010, that result from the telemedicine or store and forward services provided by the distant site physician to the originating site hospital's patients and all complaints the originating site hospital has received about the distant site physician.

(4) The Washington medical (~~quality assurance~~) commission or the board of osteopathic medicine and surgery shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(5) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) through (3) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(6) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(7) Hospitals shall be granted access to information held by the Washington medical (~~quality assurance~~) commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(8) Violation of this section shall not be considered negligence per se.

**Sec. 16.** RCW 70.230.080 and 2013 c 301 s 4 are each amended to read as follows:

(1) Every ambulatory surgical facility shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of one or more quality improvement committees with the responsibility to review the services rendered in the ambulatory surgical facility, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. Different quality improvement committees may be established as a part of the quality improvement program to review different health care services. Such committees shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall ensure that information gathered pursuant to the program is used to review and to revise the policies and procedures of the ambulatory surgical facility;

(b) A process, including a medical staff privileges sanction procedure which must be conducted substantially in accordance with medical staff bylaws and applicable rules, regulations, or policies of the medical staff through which credentials, physical and mental capacity, professional conduct, and competence

in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the ambulatory surgical facility;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the ambulatory surgical facility's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the ambulatory surgical facility for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual practitioners within the practitioner's personnel or credential file maintained by the ambulatory surgical facility;

(g) Education programs dealing with quality improvement, patient safety, medication errors, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee is not subject to an action for civil damages or other relief as a result of such activity. Any person or entity participating in a coordinated quality improvement program that, in substantial good faith, shares information or documents with one or more other programs, committees, or boards under subsection (8) of this section is not subject to an action for civil damages or other relief as a result of the activity. For the purposes of this section, sharing information is presumed to be in substantial good faith. However, the presumption may be rebutted upon a showing of clear, cogent, and convincing evidence that the information shared was knowingly false or deliberately misleading.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to review or disclosure, except as provided in this section, or discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the

testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence of information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the management of the ambulatory surgical facility, as identified in the facility's application, in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The Washington medical (~~(quality assurance)~~) commission, the board of osteopathic medicine and surgery, or the podiatric medical board, as appropriate, may review and audit the records of committee decisions in which a practitioner's privileges are terminated or restricted. Each ambulatory surgical facility shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained is not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of an ambulatory surgical facility to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) The department and any accrediting organization may review and audit the records of a quality improvement committee or peer review committee in connection with their inspection and review of the ambulatory surgical facility. Information so obtained is not subject to the discovery process, and confidentiality shall be respected as required by subsection (3) of this section. Each ambulatory surgical facility shall produce and make accessible to the department the appropriate records and otherwise facilitate the review and audit.

(8) A coordinated quality improvement program may share information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee or a peer review committee under RCW 4.24.250 with one or more other coordinated quality improvement programs maintained in accordance with this section or RCW 43.70.510 or 70.41.200, a quality assurance committee maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer review committee under RCW 4.24.250, for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and

state privacy laws. Information and documents disclosed by one coordinated quality improvement program to another coordinated quality improvement program or a peer review committee under RCW 4.24.250 and any information and documents created or maintained as a result of the sharing of information and documents are not subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section, RCW 18.20.390 (6) and (8), 70.41.200(3), 74.42.640 (7) and (9), and 4.24.250.

(9) An ambulatory surgical facility that participates in a coordinated quality improvement program under RCW 43.70.510 shall be deemed to have met the requirements of this section.

(10) Violation of this section shall not be considered negligence per se.

**Sec. 17.** RCW 70.230.130 and 2007 c 273 s 14 are each amended to read as follows:

Each ambulatory surgical facility shall keep written records of decisions to restrict or terminate privileges of practitioners. Copies of such records shall be made available to the Washington medical (~~(quality assurance)~~) commission, the board of osteopathic medicine and surgery, or the podiatric medical board, within thirty days of a request, and all information so gained remains confidential in accordance with RCW 70.230.080 and 70.230.120 and is protected from the discovery process. Failure of an ambulatory surgical facility to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

**Sec. 18.** RCW 70.230.140 and 2013 c 301 s 5 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any practitioner or hiring a practitioner, an ambulatory surgical facility approved pursuant to this chapter shall request from the practitioner and the practitioner shall provide the following information:

(a) The name of any hospital, ambulatory surgical facility, or other facility with or at which the practitioner had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the ambulatory surgical facility may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

(i) License to practice any profession in any jurisdiction;

(ii) Other professional registration or certification in any jurisdiction;

(iii) Specialty or subspecialty board certification;

(iv) Membership on any hospital medical staff;

(v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;

(vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;

(vii) Professional society membership or fellowship;

(viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;

(ix) Academic appointment;

(x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the practitioner deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the practitioner deems appropriate;

(e) A waiver by the practitioner of any confidentiality provisions concerning the information required to be provided to ambulatory surgical facilities pursuant to this subsection; and

(f) A verification by the practitioner that the information provided by the practitioner is accurate and complete.

(2) Prior to granting privileges or association to any practitioner or hiring a practitioner, an ambulatory surgical facility approved under this chapter shall request from any hospital or ambulatory surgical facility with or at which the practitioner had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the practitioner:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals or ambulatory surgical facilities pursuant to RCW 18.130.070.

(3) The Washington medical (~~quality assurance~~) commission, board of osteopathic medicine and surgery, podiatric medical board, or dental quality assurance commission, as appropriate, shall be advised within thirty days of the name of any practitioner denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital, ambulatory surgical facility, or other facility that receives a request for information from another hospital, ambulatory surgical facility, or other facility pursuant to subsections (1) and (2) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital, ambulatory surgical facility, or other facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital, ambulatory surgical facility, or facility. A hospital, ambulatory surgical facility, other facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.



(5) Information and documents, including complaints and incident reports, created specifically for, and collected and maintained by, a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any, and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department to be made regarding the care and treatment received.

(6) Ambulatory surgical facilities shall be granted access to information held by the Washington medical (~~(quality assurance)~~) commission, board of osteopathic medicine and surgery, or podiatric medical board pertinent to decisions of the ambulatory surgical facility regarding credentialing and recertification of practitioners.

(7) Violation of this section shall not be considered negligence per se.

**Sec. 19.** RCW 74.09.290 and 2018 c 201 s 7015 are each amended to read as follows:

The secretary or director shall have the authority to:

(1) Conduct audits and investigations of providers of medical and other services furnished pursuant to this chapter or other applicable law, except that the Washington (~~(state)~~) medical (~~(quality assurance)~~) commission shall generally serve in an advisory capacity to the secretary or director in the conduct of audits or investigations of physicians. Any overpayment discovered as a result of an audit of a provider under this authority shall be offset by any underpayments discovered in that same audit sample. In order to determine the provider's actual, usual, customary, or prevailing charges, the secretary or director may examine such random representative records as necessary to show accounts billed and accounts received except that in the conduct of such examinations, patient names, other than public assistance applicants or recipients, shall not be noted, copied, or otherwise made available to the department or authority. In order to verify costs incurred by the department or authority for treatment of public assistance applicants or recipients, the secretary or director may examine patient records or portions thereof in connection with services to such applicants or recipients rendered by a health care provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200, 18.83.110, or any other statute which may make or purport to make such records privileged or

confidential: PROVIDED, That no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information by the department or the authority is prohibited and shall be punishable as a class C felony according to chapter 9A.20 RCW, unless such disclosure is directly connected to the official purpose for which the records or information were obtained: PROVIDED FURTHER, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationship between the provider and the patient, but no evidence resulting from such disclosure may be used in any civil, administrative, or criminal proceeding against the patient unless a waiver of the applicable evidentiary privilege is obtained: PROVIDED FURTHER, That the secretary or director shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished pursuant to this chapter or other applicable law;

(3) Terminate or suspend eligibility to participate as a provider of services furnished pursuant to this chapter or other applicable law; and

(4) Adopt, promulgate, amend, and repeal administrative rules, in accordance with the administrative procedure act, chapter 34.05 RCW, to carry out the policies and purposes of this section and RCW 74.09.200 through 74.09.280.

**Sec. 20.** RCW 74.42.230 and 2016 c 148 s 9 are each amended to read as follows:

(1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall continue in effect until discontinued by a physician or other authorized prescriber, unless the order is specifically limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical ((~~quality assurance~~)) commission, or a pharmacist under chapter 18.64 RCW when authorized by the pharmacy quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and physically or electronically signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

(3) A licensed nurse, pharmacist, or another physician receiving and recording an oral order may, if so authorized by the physician or authorized practitioner, communicate that order to a pharmacy on behalf of the physician or authorized practitioner. The order may be communicated verbally by telephone, by facsimile manually signed by the person receiving the order pursuant to subsection (2) of this section, or by electronic transmission pursuant to RCW 69.41.055. The communication of a resident's order to a pharmacy by a licensed nurse, pharmacist, or another physician acting at the prescriber's direction has

the same force and effect as if communicated directly by the delegating physician or authorized practitioner. Nothing in this provision limits the authority of a licensed nurse, pharmacist, or physician to delegate to an authorized agent, including but not limited to delegation of operation of a facsimile machine by credentialed facility staff, to the extent consistent with his or her professional license.

Passed by the Senate March 7, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 56

[Substitute Senate Bill 5889]

### HEALTH INSURANCE COMMUNICATIONS--CONFIDENTIALITY

AN ACT Relating to insurance communications confidentiality; amending RCW 48.43.005, 48.43.505, 48.43.510, and 48.43.530; adding a new section to chapter 48.43 RCW; creating a new section; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The legislature finds and declares:

(1) All people deserve the right to choose the health services that are right for them, and the right to confidential access to those health services.

(2) When people are assured of the ability to confidentially access health care services, they are more likely to seek health services, disclose health risk behaviors to a clinician, and return for follow-up care.

(3) When denied confidential access to needed care, people may delay or forgo care, leading to higher rates of unprotected sex, unintended pregnancy, untreated sexually transmitted infections, and mental health issues, or they may turn to public health safety net funds or free clinics to receive confidential care—important resources that should be reserved for people who do not have insurance coverage.

**Sec. 2.** RCW 48.43.005 and 2016 c 65 s 2 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Adverse benefit determination" means a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit, including a denial, reduction, termination, or failure to provide or make payment that is based on a determination of an enrollee's or applicant's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment, in whole or in part, for a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are

otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(3) "Applicant" means a person who applies for enrollment in an individual health plan as the subscriber or an enrollee, or the dependent or spouse of a subscriber or enrollee.

(4) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(5) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(6) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(7) "Board" means the governing board of the Washington health benefit exchange established in chapter 43.71 RCW.

(8)(a) For grandfathered health benefit plans issued before January 1, 2014, and renewed thereafter, "catastrophic health plan" means:

(i) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(ii) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least six thousand dollars, both amounts to be adjusted annually by the insurance commissioner.

(b) In July 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. For a plan year beginning in 2014, the out-of-pocket limits must be adjusted as specified in section 1302(c)(1) of P.L. 111-148 of 2010, as amended. The adjusted amount shall apply on the following January 1st.

(c) For health benefit plans issued on or after January 1, 2014, "catastrophic health plan" means:

(i) A health benefit plan that meets the definition of catastrophic plan set forth in section 1302(e) of P.L. 111-148 of 2010, as amended; or

(ii) A health benefit plan offered outside the exchange marketplace that requires a calendar year deductible or out-of-pocket expenses under the plan, other than for premiums, for covered benefits, that meets or exceeds the commissioner's annual adjustment under (b) of this subsection.

(9) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical

requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(10) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(11) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(12) "Dependent" means, at a minimum, the enrollee's legal spouse and dependent children who qualify for coverage under the enrollee's health benefit plan.

(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition (a) placing the health of the individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part.

(14) "Emergency services" means a medical screening examination, as required under section 1867 of the social security act (42 U.S.C. 1395dd), that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate that emergency medical condition, and further medical examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital, as are required under section 1867 of the social security act (42 U.S.C. 1395dd) to stabilize the patient. Stabilize, with respect to an emergency medical condition, has the meaning given in section 1867(e)(3) of the social security act (42 U.S.C. 1395dd(e)(3)).

(15) "Employee" has the same meaning given to the term, as of January 1, 2008, under section 3(6) of the federal employee retirement income security act of 1974.

(16) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(17) "Exchange" means the Washington health benefit exchange established under chapter 43.71 RCW.

(18) "Final external review decision" means a determination by an independent review organization at the conclusion of an external review.

(19) "Final internal adverse benefit determination" means an adverse benefit determination that has been upheld by a health plan or carrier at the completion of the internal appeals process, or an adverse benefit determination with respect to which the internal appeals process has been exhausted under the exhaustion rules described in RCW 48.43.530 and 48.43.535.

(20) "Grandfathered health plan" means a group health plan or an individual health plan that under section 1251 of the patient protection and affordable care act, P.L. 111-148 (2010) and as amended by the health care and education reconciliation act, P.L. 111-152 (2010) is not subject to subtitles A or C of the act as amended.

(21) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(22) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(23) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(24) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(25) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in the patient protection and affordable care act (P.L. 111-148).

(26) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 or 48.83 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease or illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage;

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner; and

(m) Civilian health and medical program for the veterans affairs administration (CHAMPVA).

(27) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

(28) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(29) "Open enrollment" means a period of time as defined in rule to be held at the same time each year, during which applicants may enroll in a carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(30) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(31) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(32) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(33) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that employed an average of at least one but no more than fifty employees, during the previous calendar year and employed at least one employee on the first day of the plan year, is not formed primarily for purposes of buying health insurance, and in which a bona fide employer-employee relationship exists. In determining the number of employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets

the requirements of this definition. A self-employed individual or sole proprietor who is covered as a group of one must also: (a) Have been employed by the same small employer or small group for at least twelve months prior to application for small group coverage, and (b) verify that he or she derived at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year, except a self-employed individual or sole proprietor in an agricultural trade or business, must have derived at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year.

(34) "Special enrollment" means a defined period of time of not less than thirty-one days, triggered by a specific qualifying event experienced by the applicant, during which applicants may enroll in the carrier's individual health benefit plan without being subject to health screening or otherwise required to provide evidence of insurability as a condition for enrollment.

(35) "Standard health questionnaire" means the standard health questionnaire designated under chapter 48.41 RCW.

(36) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(37) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

(38)(a) "Protected individual" means:

(i) An adult covered as a dependent on the enrollee's health benefit plan, including an individual enrolled on the health benefit plan of the individual's registered domestic partner; or

(ii) A minor who may obtain health care without the consent of a parent or legal guardian, pursuant to state or federal law.

(b) "Protected individual" does not include an individual deemed not competent to provide informed consent for care under RCW 11.88.010(1)(e).

(39) "Sensitive health care services" means health services related to reproductive health, sexually transmitted diseases, substance use disorder, gender dysphoria, gender affirming care, domestic violence, and mental health.

**Sec. 3.** RCW 48.43.505 and 2000 c 5 s 5 are each amended to read as follows:

(1) Health carriers and insurers shall adopt policies and procedures that conform administrative, business, and operational practices to protect an enrollee's and protected individual's right to privacy or right to confidential health care services granted under state or federal laws.

(2) A health carrier may not require protected individuals to obtain the policyholder, primary subscriber, or other covered person's authorization to



receive health care services or to submit a claim if the protected individual has the right to consent to care.

(3) A health carrier must recognize the right of a protected individual or enrollee to exclusively exercise rights granted under this section regarding health information related to care that the enrollee or protected individual has received.

(4) A health carrier or insurer must direct all communication regarding a protected individual's receipt of sensitive health care services directly to the protected individual receiving care, or to a physical or email address or telephone number specified by the protected individual. A carrier or insurer may not disclose nonpublic personal health information concerning sensitive health care services provided to a protected individual to any person, including the policyholder, the primary subscriber, or any plan enrollees other than the protected individual receiving care, without the express written consent or verbal authorization on a recorded telephone line of the protected individual receiving care. Communications subject to this limitation include the following written, verbal, or electronic communications:

(a) Bills and attempts to collect payment;

(b) A notice of adverse benefits determinations;

(c) An explanations of benefits notice;

(d) A carrier's request for additional information regarding a claim;

(e) A notice of a contested claim;

(f) The name and address of a provider, a description of services provided, and other visit information; and

(g) Any written, oral, or electronic communication from a carrier that contains protected health information.

(5) Protected individuals may request that health carrier communications regarding the receipt of sensitive health care services be sent to another individual, including the policyholder, primary subscriber, or a health care provider, for the purposes of appealing adverse benefits determinations.

(6) Health carriers shall:

(a) Limit disclosure of any information, including personal health information, about a protected individual who is the subject of the information and shall direct communications containing such information directly to the protected individual, or to a physical or email address or telephone number specified by the protected individual, if he or she requests such a limitation, regardless of whether the information pertains to sensitive services;

(b) Permit protected individuals to use the form described in section 4(2) of this act and must also allow enrollees and protected individuals to make the request by telephone, email, or the internet;

(c) Ensure that requests for nondisclosure remain in effect until the protected individual revokes or modifies the request in writing;

(d) Limit disclosure of information under this subsection consistent with the protected individual's request; and

(e) Ensure that requests for nondisclosure are implemented no later than three business days after receipt of a request.

(7) Health carriers may not require a protected individual to waive any right to limit disclosure under this section as a condition of eligibility for or coverage under a health benefit plan.

(8) For the protection of patient confidentiality, any communication from a health carrier relating to the provision of health care services, if the communications disclose protected health information, including medical information or provider name and address, relating to receipt of sensitive services, must be provided in the form and format requested by the individual patient receiving care.

(9) The commissioner may adopt rules to implement this section after considering relevant standards adopted by national managed care accreditation organizations and the national association of insurance commissioners, and after considering the effect of those standards on the ability of carriers to undertake enrollee care management and disease management programs.

**NEW SECTION. Sec. 4.** A new section is added to chapter 48.43 RCW to read as follows:

(1) The commissioner shall:

(a) Develop a process for the regular collection of information from carriers on requests for confidential communications pursuant to RCW 48.43.505 for the purposes of monitoring compliance, including monitoring:

(i) The effectiveness of the process described in RCW 48.43.505 in allowing protected individuals to redirect insurance communications, the extent to which protected individuals are using the process, and whether the process is working properly; and

(ii) The education and outreach activities conducted by carriers to inform enrollees about their right to confidential communications.

(b) Establish a process for ensuring compliance; and

(c) Develop rules necessary to implement this act.

(2) The commissioner shall work with stakeholders to develop and make available to the public a standardized form that a protected individual may submit to a carrier to make a confidential communications request. At minimum, this form must:

(a) Inform a protected individual about the protected individual's right to confidential communications;

(b) Allow a protected individual to indicate where to redirect communications, including a specified physical or email address or specified telephone number; and

(c) Include a disclaimer that it may take up to three business days from the date of receipt for a carrier to process the form.

**Sec. 5.** RCW 48.43.510 and 2012 c 211 s 26 are each amended to read as follows:

(1) A carrier that offers a health plan may not offer to sell a health plan to an enrollee or to any group representative, agent, employer, or enrollee representative without first offering to provide, and providing upon request, the following information before purchase or selection:

(a) A listing of covered benefits, including prescription drug benefits, if any, a copy of the current formulary, if any is used, definitions of terms such as generic versus brand name, and policies regarding coverage of drugs, such as how they become approved or taken off the formulary, and how consumers may be involved in decisions about benefits;

(b) A listing of exclusions, reductions, and limitations to covered benefits, and any definition of medical necessity or other coverage criteria upon which they may be based;

(c) A statement of the carrier's policies for protecting the confidentiality of health information;

(d) A statement of the cost of premiums and any enrollee cost-sharing requirements;

(e) A summary explanation of the carrier's review of adverse benefit determinations and grievance processes;

(f) A statement regarding the availability of a point-of-service option, if any, and how the option operates; and

(g) A convenient means of obtaining lists of participating primary care and specialty care providers, including disclosure of network arrangements that restrict access to providers within any plan network. The offer to provide the information referenced in this subsection (1) must be clearly and prominently displayed on any information provided to any prospective enrollee or to any prospective group representative, agent, employer, or enrollee representative.

(2) Upon the request of any person, including a current enrollee, prospective enrollee, or the insurance commissioner, a carrier must provide written information regarding any health care plan it offers, that includes the following written information:

(a) Any documents, instruments, or other information referred to in the medical coverage agreement;

(b) A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral;

(c) Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services;

(d) A written description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider or network;

(e) Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists;

(f) An annual accounting of all payments made by the carrier which have been counted against any payment limitations, visit limitations, or other overall limitations on a person's coverage under a plan; however, the individual requesting an annual accounting may only receive information about that individual's own care, and may not receive information pertaining to protected individuals who have requested confidential communications pursuant to RCW 48.43.505;

(g) A copy of the carrier's review of adverse benefit determinations grievance process for claim or service denial and its grievance process for dissatisfaction with care; and

(h) Accreditation status with one or more national managed care accreditation organizations, and whether the carrier tracks its health care effectiveness performance using the health employer data information set

(HEDIS), whether it publicly reports its HEDIS data, and how interested persons can access its HEDIS data.

(3) Each carrier shall provide to all enrollees and prospective enrollees a list of available disclosure items.

(4) Nothing in this section requires a carrier or a health care provider to divulge proprietary information to an enrollee, including the specific contractual terms and conditions between a carrier and a provider.

(5) No carrier may advertise or market any health plan to the public as a plan that covers services that help prevent illness or promote the health of enrollees unless it:

(a) Provides all clinical preventive health services provided by the basic health plan, authorized by chapter 70.47 RCW;

(b) Monitors and reports annually to enrollees on standardized measures of health care and satisfaction of all enrollees in the health plan. The state department of health shall recommend appropriate standardized measures for this purpose, after consideration of national standardized measurement systems adopted by national managed care accreditation organizations and state agencies that purchase managed health care services; and

(c) Makes available upon request to enrollees its integrated plan to identify and manage the most prevalent diseases within its enrolled population, including cancer, heart disease, and stroke.

(6) No carrier may preclude or discourage its providers from informing an enrollee of the care he or she requires, including various treatment options, and whether in the providers' view such care is consistent with the plan's health coverage criteria, or otherwise covered by the enrollee's medical coverage agreement with the carrier. No carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of an enrollee with a carrier. Nothing in this section shall be construed to authorize a provider to bind a carrier to pay for any service.

(7) No carrier may preclude or discourage enrollees or those paying for their coverage from discussing the comparative merits of different carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

(8) Each carrier must communicate enrollee information required in chapter 5, Laws of 2000 by means that ensure that a substantial portion of the enrollee population can make use of the information. Carriers may implement alternative, efficient methods of communication to ensure enrollees have access to information including, but not limited to, web site alerts, postcard mailings, and electronic communication in lieu of printed materials.

(9) The commissioner may adopt rules to implement this section. In developing rules to implement this section, the commissioner shall consider relevant standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services, as well as opportunities to reduce administrative costs included in health plans.

**Sec. 6.** RCW 48.43.530 and 2012 c 211 s 20 are each amended to read as follows:

(1) Each carrier and health plan must have fully operational, comprehensive grievance and appeal processes, and for plans that are not grandfathered, fully operational, comprehensive, and effective grievance and review of adverse

benefit determination processes that comply with the requirements of this section and any rules adopted by the commissioner to implement this section. For the purposes of this section, the commissioner must consider applicable grievance and appeal or review of adverse benefit determination process standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services, and for health plans that are not grandfathered health plans as approved by the United States department of health and human services or the United States department of labor. In the case of coverage offered in connection with a group health plan, if either the carrier or the health plan complies with the requirements of this section and RCW 48.43.535, then the obligation to comply is satisfied for both the carrier and the plan with respect to the health insurance coverage.

(2) Each carrier and health plan must process as a grievance an enrollee's expression of dissatisfaction about customer service or the quality or availability of a health service. Each carrier must implement procedures for registering and responding to oral and written grievances in a timely and thorough manner.

(3) Each carrier and health plan must provide written notice to an enrollee or the enrollee's designated representative, and the enrollee's provider, of its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to or continued stay in a health care facility. Such notice must be sent directly to a protected individual receiving care when accessing sensitive health care services or when a protected individual has requested confidential communication pursuant to RCW 48.43.505(5).

(4) An enrollee's written or oral request that a carrier reconsider its decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits, including the admission to, or continued stay in, a health care facility must be processed as follows:

(a) When the request is made under a grandfathered health plan, the plan and the carrier must process it as an appeal;

(b) When the request is made under a health plan that is not grandfathered, the plan and the carrier must process it as a review of an adverse benefit determination; and

(c) Neither a carrier nor a health plan, whether grandfathered or not, may require that an enrollee file a complaint or grievance prior to seeking appeal of a decision or review of an adverse benefit determination under this subsection.

(5) To process an appeal, each plan that is not grandfathered and each carrier offering that plan must:

(a) Provide written notice to the enrollee when the appeal is received;

(b) Assist the enrollee with the appeal process;

(c) Make its decision regarding the appeal within thirty days of the date the appeal is received. An appeal must be expedited if the enrollee's provider or the carrier's medical director reasonably determines that following the appeal process response timelines could seriously jeopardize the enrollee's life, health, or ability to regain maximum function. The decision regarding an expedited appeal must be made within seventy-two hours of the date the appeal is received;

(d) Cooperate with a representative authorized in writing by the enrollee;

(e) Consider information submitted by the enrollee;

(f) Investigate and resolve the appeal; and

(g) Provide written notice of its resolution of the appeal to the enrollee and, with the permission of the enrollee, to the enrollee's providers. The written notice must explain the carrier's and health plan's decision and the supporting coverage or clinical reasons and the enrollee's right to request independent review of the carrier's decision under RCW 48.43.535.

(6) Written notice required by subsection (3) of this section must explain:

(a) The carrier's and health plan's decision and the supporting coverage or clinical reasons; and

(b) The carrier's and grandfathered plan's appeal or for plans that are not grandfathered, adverse benefit determination review process, including information, as appropriate, about how to exercise the enrollee's rights to obtain a second opinion, and how to continue receiving services as provided in this section.

(7) When an enrollee requests that the carrier or health plan reconsider its decision to modify, reduce, or terminate an otherwise covered health service that an enrollee is receiving through the health plan and the carrier's or health plan's decision is based upon a finding that the health service, or level of health service, is no longer medically necessary or appropriate, the carrier and health plan must continue to provide that health service until the appeal, or for health plans that are not grandfathered, the review of an adverse benefit determination, is resolved. If the resolution of the appeal, review of an adverse benefit determination, or any review sought by the enrollee under RCW 48.43.535 affirms the carrier's or health plan's decision, the enrollee may be responsible for the cost of this continued health service.

(8) Each carrier and health plan must provide a clear explanation of the grievance and appeal, or for plans that are not grandfathered, the process for review of an adverse benefit determination process upon request, upon enrollment to new enrollees, and annually to enrollees and subcontractors.

(9) Each carrier and health plan must ensure that each grievance, appeal, and for plans that are not grandfathered, grievance and review of adverse benefit determinations, process is accessible to enrollees who are limited English speakers, who have literacy problems, or who have physical or mental disabilities that impede their ability to file a grievance, appeal or review of an adverse benefit determination.

(10)(a) Each plan that is not grandfathered and the carrier that offers it must: Track each appeal until final resolution; maintain, and make accessible to the commissioner for a period of three years, a log of all appeals; and identify and evaluate trends in appeals.

(b) Each grandfathered plan and the carrier that offers it must: Track each review of an adverse benefit determination until final resolution; maintain and make accessible to the commissioner, for a period of six years, a log of all such determinations; and identify and evaluate trends in requests for and resolution of review of adverse benefit determinations.

(11) In complying with this section, plans that are not grandfathered and the carriers offering them must treat a rescission of coverage, whether or not the rescission has an adverse effect on any particular benefit at that time, and any decision to deny coverage in an initial eligibility determination as an adverse benefit determination.

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.

NEW SECTION. Sec. 8. This act takes effect January 1, 2020.

Passed by the Senate March 6, 2019.

Passed by the House April 4, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 57

[Senate Bill 5895]

### GUARDIANS AD LITEM--FINGERPRINT BACKGROUND CHECKS--FREQUENCY

AN ACT Relating to fingerprint background checks for guardians ad litem; and amending RCW 13.34.100.

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

**Sec. 1.** RCW 13.34.100 and 2017 c 99 s 2 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for a child who is the subject of an action under this chapter, unless a court for good cause finds the appointment unnecessary. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by an independent attorney in the proceedings. The court shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs.

(2) If the court does not have available to it a guardian ad litem program with a sufficient number of volunteers, the court may appoint a suitable person to act as guardian ad litem for the child under this chapter. Another party to the proceeding or the party's employee or representative shall not be so appointed.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

- (a) Level of formal education;
- (b) General training related to the guardian ad litem's duties;
- (c) Specific training related to issues potentially faced by children in the dependency system;
- (d) Specific training or education related to child disability or developmental issues;
- (e) Number of years' experience as a guardian ad litem;
- (f) Number of appointments as a guardian ad litem and the county or counties of appointment;
- (g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;
- (h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;
- (i) The results of an examination of state and national criminal identification data. The examination shall consist of a background check as allowed through

the Washington state criminal records privacy act under RCW 10.97.050, the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834, and the federal bureau of investigation. The background check shall be done through the Washington state patrol criminal identification section and must include a national check from the federal bureau of investigation based on the submission of fingerprints; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record shall be updated annually and fingerprint-based background checks shall be updated every three years. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program a suitable person appointed by the court to act as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) The appointment of the guardian ad litem shall remain in effect until the court discharges the appointment or no longer has jurisdiction, whichever comes first. The guardian ad litem may also be discharged upon entry of an order of guardianship.

(5) A guardian ad litem through an attorney, or as otherwise authorized by the court, shall have the right to present evidence, examine and cross-examine witnesses, and to be present at all hearings. A guardian ad litem shall receive copies of all pleadings and other documents filed or submitted to the court, and notice of all hearings according to court rules. The guardian ad litem shall receive all notice contemplated for a parent or other party in all proceedings under this chapter.

(6)(a) The court must appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship pursuant to RCW 13.34.180 and when there is no remaining parent with parental rights.

The court must appoint an attorney for a child when there is no remaining parent with parental rights for six months or longer prior to July 1, 2014, if the child is not already represented.

The court may appoint one attorney to a group of siblings, unless there is a conflict of interest, or such representation is otherwise inconsistent with the rules of professional conduct.

(b) Legal services provided by an attorney appointed pursuant to (a) of this subsection do not include representation of the child in any appellate proceedings relative to the termination of the parent and child relationship.



(c)(i) Subject to the availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to (a) of this subsection, if the legal services are provided in accordance with the standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010. Caseload limits must be calculated pursuant to (c)(ii) of this subsection.

(ii) Counties are encouraged to set caseloads as low as possible and to account for the individual needs of the children in care. Notwithstanding the caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010, when one attorney represents a sibling group, the first child is counted as one case, and each child thereafter is counted as one-half case to determine compliance with the caseload standards pursuant to (c)(i) of this subsection and RCW 2.53.045.

(iii) The office of civil legal aid is responsible for implementation of (c)(i) and (ii) of this subsection as provided in RCW 2.53.045.

(7)(a) The court may appoint an attorney to represent the child's position in any dependency action on its own initiative, or upon the request of a parent, the child, a guardian ad litem, a caregiver, or the department.

(b)(i) If the court has not already appointed an attorney for a child, or the child is not represented by a privately retained attorney:

(A) The child's caregiver, or any individual, may refer the child to an attorney for the purposes of filing a motion to request appointment of an attorney at public expense; or

(B) The child or any individual may retain an attorney for the child for the purposes of filing a motion to request appointment of an attorney at public expense.

(ii) Nothing in this subsection (7)(b) shall be construed to change or alter the confidentiality provisions of RCW 13.50.100.

(c) Pursuant to this subsection, the department or supervising agency and the child's guardian ad litem shall each notify a child of his or her right to request an attorney and shall ask the child whether he or she wishes to have an attorney. The department or supervising agency and the child's guardian ad litem shall notify the child and make this inquiry immediately after:

(i) The date of the child's twelfth birthday;

(ii) Assignment of a case involving a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010.

(d) The department or supervising agency and the child's guardian ad litem shall repeat the notification and inquiry at least annually and upon the filing of any motion or petition affecting the child's placement, services, or familial relationships.

(e) The notification and inquiry is not required if the child has already been appointed an attorney.

(f) The department or supervising agency shall note in the child's individual service and safety plan, and the guardian ad litem shall note in his or her report to the court, that the child was notified of the right to request an attorney and indicate the child's position regarding appointment of an attorney.

(g) At the first regularly scheduled hearing after:

(i) The date of the child's twelfth birthday;

(ii) The date that a dependency petition is filed pursuant to this chapter on a child age twelve or older; or

(iii) July 1, 2010, for a child who turned twelve years old before July 1, 2010;

the court shall inquire whether the child has received notice of his or her right to request an attorney from the department or supervising agency and the child's guardian ad litem. The court shall make an additional inquiry at the first regularly scheduled hearing after the child's fifteenth birthday. No inquiry is necessary if the child has already been appointed an attorney.

(8) For the purposes of child abuse prevention and treatment act (42 U.S.C. Secs. 5101 et seq.) grants to this state under P.L. 93-247, or any related state or federal legislation, a person appointed pursuant to this section shall be deemed a guardian ad litem.

(9) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The program shall attempt to match a child with special needs with a guardian ad litem who has specific training or education related to the child's individual needs. The court shall immediately appoint the person recommended by the program.

(10) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

(11) The court shall remove any person from serving as a court-appointed special advocate or volunteer guardian ad litem if the court is notified that the person has been removed from another county's registry pursuant to the disposition of a grievance or if the court is otherwise made aware that the individual was found by a court to have made a materially false statement that he or she knows to be false during an official proceeding under oath.

Passed by the Senate March 4, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 17, 2019.

Filed in Office of Secretary of State April 18, 2019.

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## CHAPTER 58

[Engrossed Substitute Senate Bill 5148]

HUNTING--VISIBLE CLOTHING

AN ACT Relating to visible clothing requirements for hunting; adding a new section to chapter 77.15 RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 77.15 RCW to read as follows:

(1) For the purpose of hunter safety, the commission must adopt rules determining the times and manner when a person hunting must wear either fluorescent orange or fluorescent pink clothing or both. The rules must allow a person hunting to wear either fluorescent orange or fluorescent pink clothing, or both, in order to meet a visible clothing requirement when hunting.

(2) A violation of this section is an infraction punishable under RCW 77.15.160.

Passed by the Senate February 20, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 59

[Substitute House Bill 1012]

### CHILD PASSENGER RESTRAINT SYSTEMS

AN ACT Relating to the use of child passenger restraint systems; amending RCW 46.61.687; adding a new section to chapter 43.59 RCW; and providing an effective date.

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

**Sec. 1.** RCW 46.61.687 and 2007 c 510 s 4 are each amended to read as follows:

(1) Whenever a child who is less than sixteen years of age is being transported in a motor vehicle that is in operation and that is required by RCW 46.37.510 to be equipped with a safety belt system in a passenger seating position, or is being transported in a neighborhood electric vehicle or medium-speed electric vehicle that is in operation, the driver of the vehicle shall keep the child properly restrained as follows:

~~(a) ((A child must be restrained in a child restraint system, if the passenger seating position equipped with a safety belt system allows sufficient space for installation, until the child is eight years old, unless the child is four feet nine inches or taller. The child restraint system must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.~~

~~(b) A child who is eight years of age or older or four feet nine inches or taller shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting child restraint system.~~

(e)) A child under the age of two years must be properly secured in a child restraint system that is rear-facing until the child reaches the weight or height limit of the child restraint system as set by the manufacturer. A child may continue to be properly secured in a child restraint system that is rear-facing until the child reaches the weight or height limit of the child restraint system as set by the manufacturer, as recommended by the American academy of pediatrics.

(b) A child who is not properly secured in a rear-facing child restraint system in accordance with (a) of this subsection and who is under the age of four years must be properly secured in a child restraint system that is forward-facing and has a harness until the child reaches the weight or height limit of the child restraint system as set by the manufacturer. A child may continue to be properly secured in a child restraint system that is forward-facing and has a harness until the child reaches the weight or height limit of the child restraint system as set by the manufacturer, as recommended by the American academy of pediatrics.

(c) A child who is not properly secured in a child restraint system in accordance with (a) or (b) of this subsection and who is under four feet nine inches tall must be properly secured in a child booster seat. A child may continue to be properly secured in a child booster seat until the vehicle lap and shoulder seat belts fit properly, typically when the child is between the ages of eight and twelve years of age, as recommended by the American academy of pediatrics, or must be properly secured with the motor vehicle's safety belt properly adjusted and fastened around the child's body.

(d) The child restraint system used must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.

(e) The child booster seat used must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child booster seat manufacturer to position a child to sit properly in a federally approved safety seat belt system.

(f) The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) Enforcement of subsection (1) of this section is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a child restraint system must ensure that the child restraint system is being used in accordance with the instruction of the vehicle and the child restraint system manufacturers. ~~((The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.))~~

(3) A person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child ~~((passenger))~~ restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(4) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian. Failure to use a child restraint system shall not be admissible as evidence of negligence in any civil action.

(5) This section does not apply to: (a) For hire vehicles, (b) vehicles designed to transport sixteen or less passengers, including the driver, operated by

auto transportation companies, as defined in RCW 81.68.010, (c) vehicles providing customer shuttle service between parking, convention, and hotel facilities, and airport terminals, and (d) school buses.

(6) As used in this section((7)):

(a) "Child booster seat" is a type of child restraint system; a backless child restraint system or a belt positioning system is a child booster seat provided it meets the federal motor vehicle safety standards set forth in 49 C.F.R. Sec. 571.213.

(b) "Child restraint system" means a child passenger restraint system that meets the federal motor vehicle safety standards set forth in 49 C.F.R. Sec. 571.213.

(7) The requirements of subsection (1)(c) of this section do not apply in any seating position where there is only a lap belt available (~~and the child weighs more than forty pounds~~).

(8)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child (~~passenger~~) restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child (~~passenger~~) restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child (~~passenger~~) restraint systems.

NEW SECTION. Sec. 2. A new section is added to chapter 43.59 RCW to read as follows:

(1) The Washington traffic safety commission shall produce and disseminate informational and educational materials explaining the proper use of child restraint systems in motor vehicles, the safety risks of not properly using child restraint systems in motor vehicles, where assistance on the proper installation and use of child restraint systems in motor vehicles can be obtained, and the legal penalties for not properly using child restraint systems in motor vehicles.

(2) As used in this section, "child restraint system" has the same meaning as defined in RCW 46.61.687(6).

NEW SECTION. Sec. 3. This act takes effect January 1, 2020.

Passed by the House February 7, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 60

[House Bill 1014]

### MOTORCYCLE OPERATORS--FINANCIAL RESPONSIBILITY

AN ACT Relating to financial responsibility of motorcycle operators; and amending RCW 46.30.020.

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

**Sec. 1.** RCW 46.30.020 and 2013 2nd sp.s. c 23 s 20 are each amended to read as follows:

(1)(a) No person may operate a motor vehicle subject to registration under chapter 46.16A RCW in this state unless the person is insured under a motor vehicle liability policy with liability limits of at least the amounts provided in RCW 46.29.090, is self-insured as provided in RCW 46.29.630, is covered by a certificate of deposit in conformance with RCW 46.29.550, or is covered by a liability bond of at least the amounts provided in RCW 46.29.090. Proof of financial responsibility for motor vehicle operation must be provided on the request of a law enforcement officer in the format specified under RCW 46.30.030.

(b) A person who drives a motor vehicle that is required to be registered in another state that requires drivers and owners of vehicles in that state to maintain insurance or financial responsibility shall, when requested by a law enforcement officer, provide evidence of financial responsibility or insurance as is required by the laws of the state in which the vehicle is registered.

(c) When asked to do so by a law enforcement officer, failure to display proof of financial responsibility for motor vehicle operation as specified under RCW 46.30.030 creates a presumption that the person does not have motor vehicle insurance.

(d) Failure to provide proof of motor vehicle insurance is a traffic infraction and is subject to penalties as set by the supreme court under RCW 46.63.110 or community restitution.

(e) For the purposes of this section, when a person uses a portable electronic device to display proof of financial security to a law enforcement officer, the officer may only view the proof of financial security and is otherwise prohibited from viewing any other content on the portable electronic device.

(f) Whenever a person presents a portable electronic device pursuant to this section, that person assumes all liability for any damage to the portable electronic device.

(2) If a person cited for a violation of subsection (1) of this section appears in person before the court or a violations bureau and provides written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, the citation shall be dismissed and the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal. In lieu of personal appearance, a person cited for a violation of subsection (1) of this section may, before the date scheduled for the person's appearance before the court or violations bureau, submit by mail to the court or violations bureau written evidence that at the time the person was cited, he or she was in compliance with the financial responsibility requirements of subsection (1) of this section, in which case the citation shall be dismissed without cost, except that the court or violations bureau may assess court administrative costs of twenty-five dollars at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under RCW 46.18.220 or 46.18.255, governed by RCW 46.16A.170, or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of (~~(a motorcycle as defined in RCW 46.04.330,)~~) a motor-driven cycle as defined in RCW 46.04.332, a moped as defined in RCW 46.04.304, or a wheeled all-terrain vehicle as defined in RCW 46.09.310.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW.

Passed by the House February 7, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 61

[Substitute House Bill 1034]

### SOJU ENDORSEMENT--RESTAURANT LICENSES

AN ACT Relating to establishing a soju endorsement to beer and/or wine restaurant licenses and spirits, beer, and wine restaurant licenses; and amending RCW 66.04.010 and 66.24.400.

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

**Sec. 1.** RCW 66.04.010 and 2015 c 193 s 3 are each amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor (~~control~~) and cannabis board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic, or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Drug store" means a place whose principal business is, the sale of drugs, medicines, and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(18) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain



distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(27) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(28) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both.

(29) "Package" means any container or receptacle used for holding liquor.

(30) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(31) "Permit" means a permit for the purchase of liquor under this title.

(32) "Person" means an individual, copartnership, association, or corporation.

(33) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.71 RCW.

(34) "Powdered alcohol" means any powder or crystalline substance containing alcohol that is produced for direct use or reconstitution.

(35) "Prescription" means a memorandum signed by a physician and given by him or her to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(36) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(37) "Regulations" means regulations made by the board under the powers conferred by this title.

(38) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(39) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his or her agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(40) "Service bar" means a fixed or portable table, counter, cart, or similar workstation primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(41) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(42) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(43) "Store" means a state liquor store established under this title.

(44) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(45) "VIP airport lounge" means an establishment within an international airport located beyond security checkpoints that provides a special space to sit, relax, read, work, and enjoy beverages where access is controlled by the VIP

airport lounge operator and is generally limited to the following classifications of persons:

(a) Airline passengers of any age whose admission is based on a first-class, executive, or business class ticket;

(b) Airline passengers of any age who are qualified members or allowed guests of certain frequent flyer or other loyalty incentive programs maintained by airlines that have agreements describing the conditions for access to the VIP airport lounge;

(c) Airline passengers of any age who are qualified members or allowed guests of certain enhanced amenities programs maintained by companies that have agreements describing the conditions for access to the VIP airport lounge;

(d) Airport and airline employees, government officials, foreign dignitaries, and other attendees of functions held by the airport authority or airlines related to the promotion of business objectives such as increasing international air traffic and enhancing foreign trade where access to the VIP airport lounge will be controlled by the VIP airport lounge operator; and

(e) Airline passengers of any age or airline employees whose admission is based on a pass issued or permission given by the airline for access to the VIP airport lounge.

(46) "VIP airport lounge operator" means an airline, port district, or other entity operating a VIP airport lounge that: Is accountable for compliance with the alcohol beverage control act under this title; holds the license under chapter 66.24 RCW issued to the VIP airport lounge; and provides a point of contact for addressing any licensing and enforcement by the board.

(47)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(48) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(49) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

(50) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(51) "Soju" means a traditional Korean distilled alcoholic beverage, produced using authentic Korean recipes and production methods, and derived from agricultural products, that contains not more than twenty-four percent of alcohol by volume.

**Sec. 2.** RCW 66.24.400 and 2011 c 119 s 401 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(5)(a) The board shall create a soju endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to serve soju for on-premises consumption by the bottle to tables of two or more patrons twenty-one years of age or older. Cost of the endorsement is fifty dollars.

(b) The holder of a soju endorsement may serve soju in bottles that are three hundred seventy-five milliliters or less. Empty bottles of soju must remain on the patron's table until the patron has left the premises of the licensee.

(c) The patron of a holder of a soju endorsement may remove from the premises recapped in its original container any unused portion of soju that was purchased for consumption with a meal.

(d) The board must develop additional responsible sale and service of soju training curriculum related to the provisions of the soju endorsement under this subsection (5) that includes but is not limited to certification procedures and enforcement policies. This information must be provided in both Korean and English languages to licensees holding the soju endorsement. Soju endorsement holders must ensure servers providing soju to patrons are trained in the soju curriculum developed under this subsection (5).

Passed by the House March 1, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 62

[Substitute House Bill 1049]

### HEALTH CARE WHISTLEBLOWER PROTECTIONS

AN ACT Relating to health care provider and health care facility whistleblower protections; amending RCW 43.70.075; and adding a new section to chapter 7.71 RCW.

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

**Sec. 1.** RCW 43.70.075 and 2006 c 8 s 109 are each amended to read as follows:

(1)(a) The identity of a whistleblower ((who)) must remain confidential if that whistleblower:

(i) Complains, in good faith, to the department of health about the improper quality of care by a health care provider, or in a health care facility((as defined in RCW 43.72.010, or who));

(ii) Initiates in good faith any investigation or administrative proceeding about a complaint of improper quality of care made to the department under this section; or

(iii) Submits a notification or report of an adverse event or an incident, in good faith, to the department of health under RCW 70.56.020 or to the independent entity under RCW 70.56.040(~~(, shall remain confidential)~~).

(b) The provisions of RCW 4.24.500 through 4.24.520, providing certain protections to persons who communicate to government agencies, shall apply to complaints and notifications or reports of adverse events or incidents filed under this section. The identity of the whistleblower shall remain confidential unless the department determines that the complaint (~~(of)~~) initiation, notification, or report (~~(of the adverse event or incident)~~) was not made or done in good faith.

(c) An employee who is a whistleblower, as defined in this section, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW.

(d) A whistleblower who is not an employee and who as a result of being a whistleblower has been subjected to reprisal or retaliatory action may initiate a civil action in a court of competent jurisdiction to either enjoin further violations, recover actual damages sustained by the whistleblower, or both, and recover the cost of the suit including reasonable attorneys' fees. The court shall award reasonable attorneys' fees in favor of the respondent if the civil action was initiated by a whistleblower who is not an employee and the court finds that the respondent has not engaged in the alleged reprisal or retaliatory action and that the complaint was frivolous, unreasonable, or groundless.

(2)(~~(a)~~) A civil action under this section may not be brought more than two years after the date when the retaliation occurred.

(3) In this section:

(a) "Health care facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, ambulatory surgical facilities licensed under chapter 70.230 RCW, substance use disorder treatment facilities licensed under chapter 71.24 RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(b) "Improper quality of care" means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 or chapters 70.41, (~~(70.96A)~~) 71.24, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the state department of health, adopt rules defining accepted standards of practice for their profession that shall further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment.

~~((b))~~ (c) "Reprisal or retaliatory action" means but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct pursuant to Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; ~~((and))~~ a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; and the revocation, suspension, or reduction of medical staff membership or privileges without following a medical staff sanction process that is consistent with section 2 of this act.

~~((e))~~ (d) "Whistleblower" means a consumer, employee, or health care professional including a health care provider as defined in RCW 7.70.020(1) or member of a medical staff at a health care facility, who in good faith reports alleged quality of care concerns to the department of health or initiates, participates, or cooperates in any investigation or administrative proceeding under this section.

~~((3))~~ (4) Nothing in this section prohibits a health care facility from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

~~((4))~~ (5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under Title 18 RCW for health professionals or health care facilities.

NEW SECTION. Sec. 2. A new section is added to chapter 7.71 RCW to read as follows:

(1) A medical staff privilege sanction process that results in a revocation, suspension, or reduction of medical staff privileges or membership at a health care facility must meet the requirements of RCW 70.41.200(1)(b).

(2) A professional peer review action taken by a health care facility that imposes a revocation, suspension, or reduction of medical staff privileges or membership must meet the requirements of and is subject to 42 U.S.C. Sec. 11112.

(3) In this section, "health care facility" has the same meaning as in RCW 43.70.075.

Passed by the House March 7, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 63

[Second Substitute House Bill 1059]

### BUSINESS AND OCCUPATION TAX--ANNUAL RETURN DUE DATE

AN ACT Relating to extending the business and occupation tax return filing due date for annual filers; amending RCW 82.32.045 and 35.102.070; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that the filing of an annual excise tax return by January 31st can be a hardship for those many taxpayers, including self-employed taxpayers, who must wait to receive a 1099 form. Therefore, some state taxpayers do not receive the information they need to accurately file their taxes until on or shortly after the current state filing deadline. The legislature finds that it is an unnecessary burden on taxpayers, and an inefficient use of state time and resources, to require them to file their return under the current timeline using the best information available to them and then subsequently amend their return at a later date. The legislature intends to address this by extending the deadline for taxpayers who qualify to be annual filers.

**Sec. 2.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. Except as provided in subsection (3) of this section, for these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) For annual filers, tax payments, along with reports and returns on forms prescribed by the department, are due on or before April 15th of the year immediately following the end of the period covered by the return.

(4) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

~~((4))~~ (5) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than:

(i) Twenty-eight thousand dollars per year; or

(ii) Forty-six thousand six hundred sixty-seven dollars per year for persons generating at least fifty percent of their taxable amount from activities taxable under RCW 82.04.255, 82.04.290(2)(a), and 82.04.285;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

**Sec. 3.** RCW 35.102.070 and 2003 c 79 s 7 are each amended to read as follows:

A city that imposes a business and occupation tax ~~((shall))~~ must allow reporting and payment of tax on a monthly, quarterly, or annual basis. The frequency for any particular person may be assigned at the discretion of the city,



except that monthly reporting may be assigned only if it can be demonstrated that the taxpayer is remitting excise tax to the state on a monthly basis. For persons assigned a monthly frequency, payment is due within the same time period provided for monthly taxpayers under RCW 82.32.045. For persons assigned a quarterly or annual frequency, payment is due within the same time period as provided for quarterly or annual frequency under RCW 82.32.045. Until December 31, 2020, for persons assigned annual frequency, payment is due on or before the last day of the month next succeeding the end of the period covered by the return. Beginning January 1, 2021, and thereafter, for persons assigned annual frequency, payment is due within the same time period as provided for annual frequency under RCW 82.32.045.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House March 11, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 64

[Substitute House Bill 1091]

### TECHNICAL CORRECTIONS

AN ACT Relating to making technical corrections and removing obsolete language from the Revised Code of Washington pursuant to RCW 1.08.025; amending RCW 1.20.110, 28B.117.040, 29A.92.005, 29A.92.030, 29A.92.050, 29A.92.060, 29A.92.070, 29A.92.080, 29A.92.090, 29A.92.100, 29A.92.120, 29A.92.710, 29A.92.900, 41.50.033, 70.15.110, 70.305.010, and 74.13.029; reenacting and amending RCW 9.94A.515, 13.40.193, 41.04.665, and 66.20.300; reenacting RCW 43.21B.300, 66.20.310, and 69.50.412; adding a new section to chapter 74.14B RCW; and creating a new section.

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

NEW SECTION. Sec. 1. RCW 1.08.025 directs the code reviser, with the approval of the statute law committee, to prepare legislation for submission to the legislature "concerning deficiencies, conflicts, or obsolete provisions" in statutes. This act makes technical, nonsubstantive amendments as follows:

(1) Section 2 of this act updates RCW 1.20.110 to reflect 2008 legislation by the Scottish parliament, creating a new register of tartans.

(2) Sections 3, 17, and 19 of this act merge double amendments created when sections were amended without reference to the amendments made in the same year.

(3) Section 4 of this act amends RCW 13.40.193 to reflect a change in subsection numbering of a cross-referenced section.

(4) Section 5 of this act corrects an apparent error in RCW 28B.117.040(1). The reference to "subsection (3)(a) of this section" is incorrect. RCW 28B.117.030(3)(a) was apparently intended.

(5) Sections 6 through 16 of this act amend numerous sections in chapter 29A.92 RCW to replace references to "chapter 113, Laws of 2018" with "this chapter."

(6) Section 18 of this act amends RCW 41.50.033 to remove unnecessary subsection references for a defined term.

(7) Sections 20 through 22 of this act merge double amendments created when sections were amended without cognizance of amendments made in previous years.

(8) Section 23 of this act corrects five references to "emergency volunteer health practitioner" in RCW 70.15.110(1). Reference to "volunteer health practitioner" was apparently intended.

(9) Section 24 of this act corrects an apparent error in RCW 70.305.010 (4) and (5). The reference to RCW 43.216.141 appears erroneous. RCW 43.216.157 was apparently intended.

(10) Section 25 of this act amends RCW 74.13.029 to reflect multiple changes in subsection numbering of a cross-referenced section.

(11) Section 26 of this act adds a definition section to chapter 74.14B RCW to clarify that, pursuant to RCW 43.216.906, "department" refers to the department of children, youth, and families, rather than the department of social and health services.

**Sec. 2.** RCW 1.20.110 and 1991 c 62 s 1 are each amended to read as follows:

The Washington state tartan is hereby designated. The tartan shall have a pattern of colors, called a sett, that is made up of a green background with stripes of blue, white, yellow, red, and black. The secretary of state shall register the tartan with the Scottish (~~Tartan Society, Comrie, Perthshire, Scotland~~) Register of Tartans.

**Sec. 3.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH	
SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)

- Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
- Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
- Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- Trafficking 2 (RCW 9A.40.100(3))
- XI Manslaughter 1 (RCW 9A.32.060)
- Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW 9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run—Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

- Malicious placement of an explosive 2  
(RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor  
(RCW 9.68A.100)
- Homicide by Watercraft, by the operation  
of any vessel in a reckless manner  
(RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Prostitution 1 (RCW  
9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- VII Air bag diagnostic systems (causing  
bodily injury or death) (RCW  
46.37.660(2)(b))
- Air bag replacement requirements  
(causing bodily injury or death)  
(RCW 46.37.660(1)(b))
- Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW  
9A.48.120)
- Dealing in depictions of minor engaged in  
sexually explicit conduct 1 (RCW  
9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for  
the safety of others (RCW  
79A.60.050)
- Indecent Liberties (without forcible  
compulsion) (RCW 9A.44.100(1) (b)  
and (c))
- Introducing Contraband 1 (RCW  
9A.76.140)
- Malicious placement of an explosive 3  
(RCW 70.74.270(3))

- Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
- Unlawful Storage of Ammonia (RCW 69.55.020)

- V Abandonment of Dependent Person 2  
(RCW 9A.42.070)
- Advancing money or property for  
extortionate extension of credit  
(RCW 9A.82.030)
- Air bag diagnostic systems (RCW  
46.37.660(2)(c))
- Air bag replacement requirements (RCW  
46.37.660(1)(c))
- Bail Jumping with class A Felony (RCW  
9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW  
9A.42.030)
- Custodial Sexual Misconduct 1 (RCW  
9A.44.160)
- Dealing in Depictions of Minor Engaged  
in Sexually Explicit Conduct 2 (RCW  
9.68A.050(2))
- Domestic Violence Court Order Violation  
(RCW 10.99.040, 10.99.050,  
26.09.300, 26.10.220, (~~26.26.138~~))  
26.26B.050, 26.50.110, 26.52.070, or  
74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW  
9A.82.020)
- Extortionate Means to Collect Extensions  
of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Manufacture or import counterfeit,  
nonfunctional, damaged, or  
previously deployed air bag (RCW  
46.37.650(1)(c))
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW  
9.94.070)
- Possession of a Stolen Firearm (RCW  
9A.56.310)

- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Driving While Under the Influence (RCW 46.61.502(6))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))

- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age  
Fourteen (subsequent sex offense)  
(RCW 9A.88.010)
- Influencing Outcome of Sporting Event  
(RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Physical Control of a Vehicle While  
Under the Influence (RCW  
46.61.504(6))
- Possession of Depictions of a Minor  
Engaged in Sexually Explicit  
Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW  
9A.82.050)
- Unlawful factoring of a credit card or  
payment card transaction (RCW  
9A.56.290(4)(b))
- Unlawful transaction of health coverage  
as a health care service contractor  
(RCW 48.44.016(3))
- Unlawful transaction of health coverage  
as a health maintenance organization  
(RCW 48.46.033(3))
- Unlawful transaction of insurance  
business (RCW 48.15.023(3))
- Unlicensed practice as an insurance  
professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal Profiteering  
(RCW 9A.82.080 (1) and (2))
- Vehicle Prowling 2 (third or subsequent  
offense) (RCW 9A.52.100(3))
- Vehicular Assault, by being under the  
influence of intoxicating liquor or any  
drug, or by the operation or driving of  
a vehicle in a reckless manner (RCW  
46.61.522)



- Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- Malicious Injury to Railroad Property (RCW 81.60.070)
- Mortgage Fraud (RCW 19.144.080)
- Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
- Organized Retail Theft 1 (RCW 9A.56.350(2))
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)

- Possession of Machine Gun, Bump-fire Stock, or Short-Barreled Shotgun or Rifle (RCW 9A.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful Misbranding of (~~Food~~) Fish or Shellfish 1 (RCW 77.140.060(3))
- Unlawful possession of firearm in the second degree (RCW 9A.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
- Computer Trespass 1 (RCW 9A.90.040)

Counterfeiting (RCW 9.16.035(3))  
Electronic Data Service Interference  
(RCW 9A.90.060)  
Electronic Data Tampering 1 (RCW  
9A.90.080)  
Electronic Data Theft (RCW 9A.90.100)  
Engaging in Fish Dealing Activity  
Unlicensed 1 (RCW 77.15.620(3))  
Escape from Community Custody (RCW  
72.09.310)  
Failure to Register as a Sex Offender  
(second or subsequent offense)  
(RCW 9A.44.130 prior to June 10,  
2010, and RCW 9A.44.132)  
Health Care False Claims (RCW  
48.80.030)  
Identity Theft 2 (RCW 9.35.020(3))  
Improperly Obtaining Financial  
Information (RCW 9.35.010)  
Malicious Mischief 1 (RCW 9A.48.070)  
Organized Retail Theft 2 (RCW  
9A.56.350(3))  
Possession of Stolen Property 1 (RCW  
9A.56.150)  
Possession of a Stolen Vehicle (RCW  
9A.56.068)  
Retail Theft with Special Circumstances 2  
(RCW 9A.56.360(3))  
Scrap Processing, Recycling, or  
Supplying Without a License (second  
or subsequent offense) (RCW  
19.290.100)  
Theft 1 (RCW 9A.56.030)  
Theft of a Motor Vehicle (RCW  
9A.56.065)  
Theft of Rental, Leased, Lease-purchased,  
or Loaned Property (valued at five  
thousand dollars or more) (RCW  
9A.56.096(5)(a))

- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism 1 (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
- Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))

Theft of Rental, Leased, Lease-purchased,  
or Loaned Property (valued at seven  
hundred fifty dollars or more but less  
than five thousand dollars) (RCW  
9A.56.096(5)(b))

Transaction of insurance business beyond  
the scope of licensure (RCW  
48.17.063)

Unlawful Fish and Shellfish Catch  
Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts  
(RCW 9A.56.060)

Unlawful Possession of Fictitious  
Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of  
Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment  
Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal  
Identification Device (RCW  
9A.56.320)

Unlawful Production of Payment  
Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing,  
or Placing Deleterious Exotic  
Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps  
(RCW 9.91.142)

Unlawful Use of Food Stamps (RCW  
9.91.144)

Unlawful Use of Net to Take Fish 1  
(RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic  
Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or  
Time 1 (RCW 77.15.550(3)(b))

**Sec. 4.** RCW 13.40.193 and 2018 c 162 s 5, 2018 c 22 s 7, and 2018 c 7 s 9 are each reenacted and amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)(~~(iv)~~) (v), the court shall impose a minimum disposition of ten days of confinement. If the offender's standard range of

disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2)(a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4)(a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

(b) For the purposes of this section, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and

protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses.

**Sec. 5.** RCW 28B.117.040 and 2018 c 232 s 5 are each amended to read as follows:

Effective operation of the passport to careers program requires early and accurate identification of former foster care youth and unaccompanied youth experiencing homelessness so that they can be linked to the financial and other assistance that will help them succeed in college or in a registered apprenticeship or recognized preapprenticeship. To that end:

(1) All institutions of higher education that receive funding for student support services under RCW 28B.117.030 shall include on their applications for admission or on their registration materials a question asking whether the applicant has been in state, tribal, or federal foster care in Washington state or experienced unaccompanied homelessness under the parameters in ~~(subsection (3)(a) of this section)~~ RCW 28B.117.030(3)(a), as determined by the office, with an explanation that financial and support services may be available. All other institutions of higher education are strongly encouraged to include such a question and explanation. No institution may consider whether an applicant may be eligible for a scholarship or student support services under this chapter when deciding whether the applicant will be granted admission.

(2) With substantial input from the office of the superintendent of public instruction, the department of social and health services and the department of children, youth, and families shall devise and implement procedures for efficiently, promptly, and accurately identifying students and applicants who are eligible for services under RCW 28B.117.030, and for sharing that information with the office, the institutions of higher education, and the nongovernmental entity or entities identified in RCW 28B.77.250, 28B.117.030(5)(e), and 28B.117.055. The procedures shall include appropriate safeguards for consent by the applicant or student before disclosure.

**Sec. 6.** RCW 29A.92.005 and 2018 c 113 s 102 are each amended to read as follows:

The legislature finds that electoral systems that deny race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and equal elections as provided by Article I, section 19 and Article VI, section 1 of the Washington state Constitution as well as protections found in the Fourteenth and Fifteenth amendments to the United States Constitution. The well-established principle of "one person, one vote" and

the prohibition on vote dilution have been consistently upheld in federal and state courts for more than fifty years.

The legislature also finds that local government subdivisions are often prohibited from addressing these challenges because of Washington laws that narrowly prescribe the methods by which they may elect members of their legislative bodies. The legislature finds that in some cases, this has resulted in an improper dilution of voting power for these minority groups. The legislature intends to modify existing prohibitions in state laws so that these jurisdictions may voluntarily adopt changes on their own, in collaboration with affected community members, to remedy potential electoral issues so that minority groups have an equal opportunity to elect candidates of their choice or influence the outcome of an election.

The legislature intends for this chapter (~~((113, Laws of 2018))~~) to be consistent with federal protections that may provide a similar remedy for minority groups. Remedies shall also be available where the drawing of crossover and coalition districts is able to address both vote dilution and racial polarization.

The legislature also intends for this chapter (~~((113, Laws of 2018))~~) to be consistent with legal precedent from *Mt. Spokane Skiing Corp. v. Spokane Co.* (86 Wn. App. 165, 1997) that found that noncharter counties need not adhere to a single uniform county system of government, but that each county have the same "authority available" in order to be deemed uniform.

**Sec. 7.** RCW 29A.92.030 and 2018 c 113 s 302 are each amended to read as follows:

(1) A political subdivision is in violation of this chapter (~~((113, Laws of 2018))~~) when it is shown that:

- (a) Elections in the political subdivision exhibit polarized voting; and
- (b) Members of a protected class or classes do not have an equal opportunity to elect candidates of their choice as a result of the dilution or abridgment of the rights of members of that protected class or classes.

(2) The fact that members of a protected class are not geographically compact or concentrated to constitute a majority in a proposed or existing district-based election district shall not preclude a finding of a violation under this chapter (~~((113, Laws of 2018))~~), but may be a factor in determining a remedy. The equal opportunity to elect shall be assessed pragmatically, based on local election conditions, and may include crossover districts.

(3) In determining whether there is polarized voting under this chapter (~~((113, Laws of 2018))~~), the court shall analyze elections of the governing body of the political subdivision, ballot measure elections, elections in which at least one candidate is a member of a protected class, and other electoral choices that affect the rights and privileges of members of a protected class. Elections conducted prior to the filing of an action pursuant to this chapter (~~((113, Laws of 2018))~~) are more probative to establish the existence of racially polarized voting than elections conducted after the filing of an action.

(4) The election of candidates who are members of a protected class and who were elected prior to the filing of an action pursuant to this chapter (~~((113, Laws of 2018))~~) shall not preclude a finding of polarized voting that results in an unequal opportunity for a protected class to elect candidates of their choice.



(5) Proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required for a cause of action to be sustained.

(6) Other factors such as the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns are probative, but not necessary factors, to establish a violation of this chapter ((113, Laws of 2018)).

**Sec. 8.** RCW 29A.92.050 and 2018 c 113 s 202 are each amended to read as follows:

(1)(a) Prior to the adoption of its proposed plan, the political subdivision must provide public notice to residents of the subdivision about the proposed remedy to a potential violation of RCW 29A.92.020. If a significant segment of the residents of the subdivision have limited English proficiency and speaks a language other than English, the political subdivision must:

(i) Provide accurate written and verbal notice of the proposed remedy in languages that diverse residents of the political subdivision can understand, as indicated by demographic data; and

(ii) Air radio or television public service announcements describing the proposed remedy broadcast in the languages that diverse residents of the political subdivision can understand, as indicated by demographic data.

(b) The political subdivision shall hold at least one public hearing on the proposed plan at least one week before adoption.

(c) For purposes of this section, "significant segment of the community" means five percent or more of residents, or five hundred or more residents, whichever is fewer, residing in the political subdivision.

(2)(a) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the political subdivision shall order new elections to occur at the next succeeding general election.

(b) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the political subdivision shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(3) If a political subdivision implements a district-based election system under RCW 29A.92.040(2), the plan shall be consistent with the following criteria:

(a) Each district shall be as reasonably equal in population as possible to each and every other such district comprising the political subdivision.

(b) Each district shall be reasonably compact.

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

(d) To the extent feasible, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(e) District boundaries may not be drawn or maintained in a manner that creates or perpetuates the dilution of the votes of the members of a protected class or classes.

(4) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each political subdivision.

(5) No later than eight months after its receipt of federal decennial census data, the governing body of the political subdivision that had previously invoked its authority under RCW 29A.92.040 to implement a district-based election system, or that was previously charged with redistricting under RCW 29A.92.110, shall prepare a plan for redistricting its districts, pursuant to RCW 29A.76.010, and in a manner consistent with this chapter (~~(113, Laws of 2018)~~).

**Sec. 9.** RCW 29A.92.060 and 2018 c 113 s 301 are each amended to read as follows:

(1) A voter who resides in the political subdivision who intends to challenge a political subdivision's electoral system under this chapter (~~(113, Laws of 2018)~~) shall first notify the political subdivision. The political subdivision shall promptly make such notice public.

(2) The notice provided shall identify and provide contact information for the person or persons who intend to file an action, and shall identify the protected class or classes whose members do not have an equal opportunity to elect candidates of their choice or an equal opportunity to influence the outcome of an election because of alleged vote dilution and polarized voting. The notice shall also include a type of remedy the person believes may address the alleged violation of RCW 29A.92.030.

**Sec. 10.** RCW 29A.92.070 and 2018 c 113 s 303 are each amended to read as follows:

(1) The political subdivision shall work in good faith with the person providing the notice to implement a remedy that provides the protected class or classes identified in the notice an equal opportunity to elect candidates of their choice. Such work in good faith to implement a remedy may include, but is not limited to consideration of: (a) Relevant electoral data; (b) relevant demographic data, including the most recent census data available; and (c) any other information that would be relevant to implementing a remedy.

(2) If the political subdivision adopts a remedy that takes the notice into account, or adopts the notice's proposed remedy, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy complies with RCW 29A.92.020 and was prompted by a plausible violation. The person who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at

this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter (~~(113, Laws of 2018)~~) may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter (~~(113, Laws of 2018)~~).

(4) In agreeing to adopt the person's proposed remedy, the political subdivision may do so by stipulation, which shall become a public document.

**Sec. 11.** RCW 29A.92.080 and 2018 c 113 s 304 are each amended to read as follows:

(1) Any voter who resides in the political subdivision may file an action under this chapter (~~(113, Laws of 2018)~~) if, one hundred eighty days after a political subdivision receives notice of a challenge to its electoral system under RCW 29A.92.060, the political subdivision has not obtained a court order stating that it has adopted a remedy in compliance with RCW 29A.92.020. However, if notice is received after July 1, 2021, then the political subdivision shall have ninety days to obtain a court order before an action may be filed.

(2) If a political subdivision has received two or more notices containing materially different proposed remedies, the political subdivision shall work in good faith with the persons to implement a remedy that provides the protected class or classes identified in the notices an equal opportunity to elect candidates of their choice. If the political subdivision adopts one of the remedies offered, or a different remedy that takes multiple notices into account, the political subdivision shall seek a court order acknowledging that the political subdivision's remedy is reasonably necessary to avoid a violation of RCW 29A.92.020. The persons who submitted the notice may support or oppose such an order, and may obtain public records to do so. The political subdivision must provide all political, census, and demographic data and any analysis of that data used to develop the remedy in its filings seeking the court order and with any documents made public. All facts and reasonable inferences shall be viewed in the light most favorable to those opposing the political subdivision's proposed remedy at this stage. There shall be a rebuttable presumption that the court will decline to approve the political subdivision's proposed remedy at this stage.

(3) If the court concludes that the political subdivision's remedy complies with RCW 29A.92.020, an action under this chapter (~~(113, Laws of 2018)~~) may not be brought against that political subdivision for four years by any party so long as the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter (~~(113, Laws of 2018)~~).

**Sec. 12.** RCW 29A.92.090 and 2018 c 113 s 401 are each amended to read as follows:

(1) After exhaustion of the time period in RCW 29A.92.080, any voter who resides in a political subdivision where a violation of RCW 29A.92.020 is alleged may file an action in the superior court of the county in which the political subdivision is located. If the action is against a county, the action may be filed in the superior court of such county, or in the superior court of either of

the two nearest judicial districts as determined pursuant to RCW 36.01.050(2). An action filed pursuant to this chapter does not need to be filed as a class action.

(2) Members of different protected classes may file an action jointly pursuant to this chapter (~~((113, Laws of 2018))~~) if they demonstrate that the combined voting preferences of the multiple protected classes are polarized against the rest of the electorate.

**Sec. 13.** RCW 29A.92.100 and 2018 c 113 s 402 are each amended to read as follows:

(1) In an action filed pursuant to this chapter (~~((113, Laws of 2018))~~), the trial court shall set a trial to be held no later than one year after the filing of a complaint, and shall set a discovery and motions calendar accordingly.

(2) For purposes of any applicable statute of limitations, a cause of action under this chapter (~~((113, Laws of 2018))~~) arises every time there is an election for any members of the governing body of the political subdivision.

(3) The plaintiff's constitutional right to the secrecy of the plaintiff's vote is preserved and is not waived by the filing of an action pursuant to this chapter (~~((113, Laws of 2018))~~), and the filing is not subject to discovery or disclosure.

(4) In seeking a temporary restraining order or a preliminary injunction, a plaintiff shall not be required to post a bond or any other security in order to secure such equitable relief.

(5) No notice may be submitted to any political subdivision pursuant to this chapter (~~((113, Laws of 2018))~~) before July 19, 2018.

**Sec. 14.** RCW 29A.92.120 and 2018 c 113 s 404 are each amended to read as follows:

(1) No action under this chapter (~~((113, Laws of 2018))~~) may be brought by any person against a political subdivision that has adopted a remedy to its electoral system after an action is filed that is approved by a court pursuant to RCW 29A.92.070 or implemented a court-ordered remedy pursuant to RCW 29A.92.110 for four years after adoption of the remedy if the political subdivision does not enact a change to or deviation from the remedy during this four-year period that would otherwise give rise to an action under this chapter (~~((113, Laws of 2018))~~).

(2) No action under this chapter (~~((113, Laws of 2018))~~) may be brought by any person against a political subdivision that has adopted a remedy to its electoral system in the previous decade before June 7, 2018, as a result of a claim under the federal voting rights act until after the political subdivision completes redistricting pursuant to RCW 29A.76.010 for the 2020 decennial census.

**Sec. 15.** RCW 29A.92.710 and 2018 c 113 s 503 are each amended to read as follows:

This chapter (~~((113, Laws of 2018))~~) supersedes other state laws and local ordinances to the extent that those state laws or ordinances would otherwise restrict a jurisdiction's ability to comply with this chapter (~~((113, Laws of 2018))~~).

**Sec. 16.** RCW 29A.92.900 and 2018 c 113 s 101 are each amended to read as follows:

This chapter (~~((113, Laws of 2018))~~) may be known and cited as the Washington voting rights act of 2018.

**Sec. 17.** RCW 41.04.665 and 2018 c 39 s 4 and 2017 c 173 s 1 are each reenacted and amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;

(iv) The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointment or treatment;

(v) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(vi) The employee is a victim of domestic violence, sexual assault, or stalking;

~~((+))~~ (vii) The employee needs the time for parental leave; or

~~((+))~~ (viii) The employee is sick or temporarily disabled because of pregnancy disability;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection;

(iii) Annual leave if he or she qualifies under (a) (v) or (vi) of this subsection; or

(iv) Annual leave and sick leave reserves if the employee qualifies under (a)~~((+)) or (vi))~~ (vii) or (viii) of this subsection. However, the employee is not required to deplete all of his or her annual leave and sick leave and can maintain up to forty hours of annual leave and forty hours of sick leave in reserve;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i), (vi), ~~((+))~~ (vii), or ~~((+))~~ (viii) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) The agency head must allow employees who are veterans, as defined under RCW 41.04.005, and their spouses, to access shared leave from the veterans' in-state service shared leave pool upon employment.

(4) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (4)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(5) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(1)(b) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(6) Transfers of leave made by an agency head under subsections (4) and (5) of this section shall not exceed the requested amount.

(7) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

(8) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(9) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(10)(a) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Unused shared leave may not be returned until one of the following occurs:

(i) The agency head receives from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved; or

(ii) The employee is released to full-time employment; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's doctor has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account, the agency head must approve a new shared leave request for the employee.

(c) To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(11) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(12) The director of financial management may adopt rules as necessary to implement subsection (2) of this section.

**Sec. 18.** RCW 41.50.033 and 2007 c 493 s 1 are each amended to read as follows:

(1) The director shall determine when interest, if provided by a plan, shall be credited to accounts in the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, the law enforcement officers' and firefighters' retirement system, or the Washington state patrol retirement system. The amounts to be credited and the methods of doing so shall be at the director's discretion, except that if interest is credited, it shall be done at least quarterly.

(2) Interest as determined by the director under this section is "regular interest" as defined in RCW 41.40.010(~~((15))~~), 41.32.010(~~((23))~~), 41.35.010(~~((12))~~), 41.37.010(~~((12))~~), 41.26.030(~~((23))~~), and 43.43.120(~~((8))~~).

(3) The legislature affirms that the authority of the director under RCW 41.40.020 and 41.50.030 includes the authority and responsibility to establish the amount and all conditions for regular interest, if any. The legislature intends chapter 493, Laws of 2007 to be curative, remedial, and retrospectively applicable.

**Sec. 19.** RCW 43.21B.300 and 2010 c 210 s 12 and 2010 c 84 s 4 are each reenacted to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 90.76 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

- (a) Thirty days after receipt of the notice imposing the penalty;
- (b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or
- (c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the



superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account created by RCW 70.105.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 90.76.080, which shall be credited to the underground storage tank account created by RCW 90.76.100.

**Sec. 20.** RCW 66.20.300 and 2014 c 78 s 2 and 2014 c 29 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout RCW 66.20.310 through 66.20.350 unless the context clearly requires otherwise.

(1) "Alcohol" has the same meaning as "liquor" in RCW 66.04.010.

(2) "Alcohol server" means any person who as part of his or her employment participates in the sale or service of alcoholic beverages for ~~((on-premise [on-premises]))~~ on-premises consumption at a retail licensed premise as a regular requirement of his or her employment, and includes those persons eighteen years of age or older permitted by the liquor laws of this state to serve alcoholic beverages with meals.

(3) "Board" means the Washington state liquor ~~((control))~~ and cannabis board.

(4) "Retail licensed premises" means any:

(a) Premises licensed to sell alcohol by the glass or by the drink, or in original containers primarily for consumption on the premises as authorized by this section and RCW 66.20.310, 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.690, 66.24.450, 66.24.570, 66.24.610, 66.24.650, ~~((and))~~ 66.24.655, and 66.24.680;

(b) Distillery licensed pursuant to RCW 66.24.140 that is authorized to serve samples of its own production;

(c) Facility established by a domestic winery for serving and selling wine pursuant to RCW 66.24.170(4); and

(d) Grocery store licensed under RCW 66.24.360, but only with respect to employees whose duties include serving during tasting activities under RCW 66.24.363.

(5) "Training entity" means any liquor licensee associations, independent contractors, private persons, and private or public schools, that have been certified by the board.

**Sec. 21.** RCW 66.20.310 and 2014 c 29 s 3 and 2014 c 78 s 3 are each reenacted to read as follows:

(1)(a) There is an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There is an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every alcohol server employed, under contract or otherwise, at a retail licensed premise must be issued a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued must be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder must present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit is valid for employment at any retail licensed premises described in (a) of this subsection.

(c) Except as provided in (d) of this subsection, no licensee holding a license as authorized by this section and RCW 66.20.300, 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.690, 66.24.450, 66.24.570, 66.24.600, 66.24.610, 66.24.650, ~~((and))~~ 66.24.655, and 66.24.680 may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor must have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who

does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350, except for employees whose duties include serving during tasting activities under RCW 66.24.363.

**Sec. 22.** RCW 69.50.412 and 2013 c 3 s 22 and 2012 c 117 s 368 are each reenacted to read as follows:

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his or her junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases.

**Sec. 23.** RCW 70.15.110 and 2018 c 184 s 12 are each amended to read as follows:

(1) No act or omission, except those acts or omissions constituting gross negligence or willful or wanton misconduct, by a volunteer health practitioner registered and providing services within the provisions of this chapter shall impose any liability for civil damages resulting from such an act or omission upon:

(a) The ((emergency)) volunteer health practitioner;

(b) The supervisor or supervisors of the ((emergency)) volunteer health practitioner;

(c) Any facility or their officers or employees;

(d) The employer of the ((emergency)) volunteer health practitioner;

(e) The owner of the property or vehicle where the act or omission may have occurred;

(f) Any organization that registered the ((emergency)) volunteer health practitioner under the provisions of this chapter;

(g) The state or any state or local governmental entity; or

(h) Any professional or trade association of the ((emergency)) volunteer health practitioner.

(2) A person that, pursuant to this chapter, operates, uses, or relies upon information provided by a volunteer health practitioner registration system is not liable for damages for an act or omission relating to that operation, use, or reliance unless the act or omission constitutes gross negligence, an intentional tort, or willful or wanton misconduct.

**Sec. 24.** RCW 70.305.010 and 2018 c 58 s 11 are each amended to read as follows:

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

(1) "Adverse childhood experiences" means the following indicators of severe childhood stressors and family dysfunction that, when experienced in the first eighteen years of life and taken together, are proven by public health research to be powerful determinants of physical, mental, social, and behavioral health across the lifespan: Child physical abuse; child sexual abuse; child emotional abuse; child emotional or physical neglect; alcohol or other substance abuse in the home; mental illness, depression, or suicidal behaviors in the home; incarceration of a family member; witnessing intimate partner violence; and parental divorce or separation. Adverse childhood experiences have been demonstrated to affect the development of the brain and other major body systems.

(2) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(3) "Department" means the department of social and health services.

(4) "Evidence-based" has the same meaning as in RCW ((43.216.141)) 43.216.157.

(5) "Research-based" has the same meaning as in RCW ((43.216.141)) 43.216.157.

(6) "Secretary" means the secretary of social and health services.

(7) "Secretary of children, youth, and families" means the secretary of the department of children, youth, and families.

**Sec. 25.** RCW 74.13.029 and 2011 c 89 s 17 are each amended to read as follows:

Once a dependency is established under chapter 13.34 RCW, the department employee assigned to the case shall provide the dependent child age twelve years and older with a document containing the information described in RCW 74.13.031((46)) (18). The department employee shall explain the contents of the document to the child and direct the child to the department's web site for

further information. The department employee shall document, in the electronic data system, that this requirement was met.

**NEW SECTION. Sec. 26.** A new section is added to chapter 74.14B RCW to read as follows:

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

(1) "Department" means the department of children, youth, and families.

(2) "Secretary" means the secretary of the department of children, youth, and families.

Passed by the House March 4, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 65

[Substitute House Bill 1116]

### MOTORCYCLES--SAFETY

AN ACT Relating to motorcycle safety; amending RCW 46.81A.020, 46.20.510, 46.20.500, 3.62.090, 2.68.040, and 46.63.110; creating a new section; prescribing penalties; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The legislature finds that target zero is Washington's strategic highway safety plan of zero traffic fatalities by 2030 and the number of motorcycle involved fatalities has doubled since the 1990s and remains at a high level. Motorcycles are involved in nearly twenty percent of fatal and serious injury crashes while they make up only three percent of the total registered vehicles. Motorcyclists are also at fault in seventy-five percent of motorcycle fatalities. In order to move Washington closer to target zero, the department of licensing is updating its motorcycle safety program with feedback from the national highway traffic safety administration, the Washington traffic safety commission, and other stakeholders. These changes will improve public safety by creating a more meaningful and comprehensive motorcycle endorsement test, providing training programs greater flexibility, increasing penalties to discourage unendorsed riders, and focusing motorcycle subsidies on expanding access to motorcycle ridership.

**Sec. 2.** RCW 46.81A.020 and 2013 c 33 s 1 are each amended to read as follows:

(1) The director shall administer and enforce the law pertaining to the motorcycle skills education program as set forth in this chapter.

(2) The director may adopt and enforce reasonable rules that are consistent with this chapter.

(3) The director shall revise the Washington motorcycle safety program to:

(a) Institute separate novice and advanced motorcycle skills education courses for both two-wheeled and three-wheeled motorcycles that are each a minimum of eight hours (~~and no more than sixteen hours at a cost, except as provided in subsection (5) of this section, of (i) no more than fifty dollars for Washington state residents under the age of eighteen, and (ii) no more than one~~

~~hundred twenty five dollars for Washington state residents who are eighteen years of age or older and military personnel of any age stationed in Washington state));~~

(b) Encourage the use of loaned or used motorcycles for use in the motorcycle skills education course if the instructor approves them;

(c) Require all instructors for two-wheeled motorcycles to conduct at least three classes in a one-year period, and all instructors for three-wheeled motorcycles to conduct at least one class in a one-year period, to maintain their teaching eligibility.

(4) The department may enter into agreements to review and certify that a private motorcycle skills education course meets educational standards equivalent to those required of courses conducted under the motorcycle skills education program. An agreement entered into under this subsection must provide that the department may conduct periodic audits to ensure that educational standards continue to meet those required for courses conducted under the motorcycle skills education program, and that the costs of the review, certification, and audit process will be borne by the party seeking certification.

~~(5) ((Subject to the requirements provided in this subsection, the department must allow private motorcycle skills education programs to offer motorcycle safety education where students pay the full cost for the training. After the department has reviewed and certified that a private motorcycle skills education course proposed under this subsection meets educational standards equivalent to those offered under subsection (3)(a) of this section, the department must enter into an agreement with the private motorcycle skills education program. An agreement entered into under this subsection must provide that (a) the department may conduct periodic audits to ensure that educational standards continue to meet those of other programs approved by the department, and (b) the costs of the review, certification, and audit process will be borne by the program seeking certification))~~ The department shall adopt rules to establish a motorcycle operator subsidy program, which may address testing costs, offer financial need-based subsidies for motorcycle training, and employ other strategies to improve access to motorcycle ridership.

(6) The department shall obtain and compile information from applicants for a motorcycle endorsement regarding whether they have completed a state approved or certified motorcycle skills education course.

**Sec. 3.** RCW 46.20.510 and 2011 c 246 s 1 are each amended to read as follows:

(1) **Motorcycle instruction permit.** A person holding a valid driver's license who wishes to learn to ride a motorcycle may apply for a motorcycle instruction permit. The department may issue a motorcycle instruction permit after the applicant has successfully passed all ~~((parts of the motorcycle examination other than the driving test))~~ knowledge and skills examinations required and approved by the department. The director shall collect a fee of fifteen dollars for the motorcycle instruction permit or renewal, and deposit the fee in the motorcycle safety education account of the highway safety fund.

(a) The examination for a two-wheeled motorcycle instruction permit and the examination for a three-wheeled motorcycle instruction permit must be separate and distinct examinations.

(b) The department may authorize an entity that has entered into a contract authorized under RCW 46.20.520 to administer the motorcycle instruction permit examinations.

(c) If a motorcyclist fails the motorcycle endorsement skills test, but demonstrates a level of riding skill consistent with a motorcycle instruction permit, the department may waive any further skills testing required to obtain a motorcycle instruction permit.

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

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

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

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

(4) The director may adopt and enforce reasonable rules that are consistent with this section.

**Sec. 4.** RCW 46.20.500 and 2018 c 60 s 4 are each amended to read as follows:

(1) No person may drive either a two-wheeled or a three-wheeled motorcycle, or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles. A person who violates this section commits a traffic infraction and is subject to: (a) The base penalty provided under RCW 46.63.110; and (b) an additional monetary penalty of two hundred fifty dollars, which must be deposited in the motorcycle safety education account under RCW 46.68.065.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle. Persons under sixteen years of age may not operate a class 3 electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device or a power wheelchair.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol.

(6) A person holding a valid driver's license may operate a motorcycle as defined under RCW 46.04.330(2) without a motorcycle endorsement.

(7) A person operating a motorcycle with a stabilizing conversion kit must have a valid driver's license specially endorsed by the director for a three-wheeled motorcycle to enable the holder to operate such a motorcycle.

**Sec. 5.** RCW 3.62.090 and 2004 c 15 s 5 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to seventy percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

(3) This section does not apply to the fee imposed under RCW 46.63.110(7), the penalty imposed under RCW 46.63.110(8), the additional penalty imposed under RCW 46.20.500, or the penalty assessment imposed under RCW 10.99.080.

**Sec. 6.** RCW 2.68.040 and 1994 c 8 s 2 are each amended to read as follows:

(1) To support the judicial information system account provided for in RCW 2.68.020, the supreme court may provide by rule for an increase in fines, penalties, and assessments, and the increased amount shall be forwarded to the state treasurer for deposit in the account:

(a) Pursuant to the authority of RCW 46.63.110(~~((2))~~) (3), the sum of ten dollars to any penalty collected by a court pursuant to supreme court infraction rules for courts of limited jurisdiction;

(b) Pursuant to RCW 3.62.060, a mandatory appearance cost in the initial sum of ten dollars to be assessed on all defendants; and

(c) Pursuant to RCW 46.63.110(~~((5))~~) (6), a ten-dollar assessment for each account for which a person requests a time payment schedule.

(2) Notwithstanding a provision of law or rule to the contrary, the assessments provided for in this section may not be waived or suspended and shall be immediately due and payable upon forfeiture, conviction, deferral of prosecution, or request for time payment, as each shall occur.

(3) The supreme court is requested to adjust these assessments for inflation.

(4) This section does not apply to the additional monetary penalty under RCW 46.20.500.

**Sec. 7.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read as follows:



(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost,

assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of two dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce,

waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

(11) The additional monetary penalty for a violation of RCW 46.20.500 is not subject to assessments or fees provided under this section.

NEW SECTION. Sec. 8. This act takes effect January 1, 2020.

Passed by the House March 6, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 66

[House Bill 1137]

### NATIONAL GUARD STATE ACTIVE SERVICE PAY--WILDLAND FIRE RESPONSE

AN ACT Relating to national guard pay in state active service for wildland fire response duty; and amending RCW 38.24.050.

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

**Sec. 1.** RCW 38.24.050 and 2011 c 336 s 767 are each amended to read as follows:

(1) Commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington, while in active state service or inactive duty, are entitled to and shall receive the same amount of pay and allowances from the state of Washington as provided by federal laws and regulations for commissioned officers, warrant officers, and enlisted personnel of the armed forces of the United States ((army)) only if federal pay and allowances are not authorized. For periods of such active state service, commissioned officers, warrant officers, and enlisted personnel of the organized militia of Washington shall receive either such pay and allowances, or for wildland fire response an amount equal to the rates established by the national wildfire coordinating group

administratively determined pay plans for emergency workers, or an amount equal to ~~((one and one-half of))~~ the ~~((federal))~~ state minimum wage, whichever is greater.

(2) Wildland fire response pay shall have an established minimum entry rate and additional scaled pay that recognizes the longevity and responsibility scope of more senior noncommissioned officers, warrant officers, and company grade commissioned officers. The pay plan is commensurate with the pay structure of other state agencies providing resources to wildland fire response. The director of the state military department shall establish the pay structure subject to approval of the office of financial management.

(3) The value of articles issued to any member and not returned in good order on demand, and legal fines or forfeitures, may be deducted from the member's pay.

(4) If federal pay and allowances are not authorized, all members detailed to serve on any board or commission ordered by the governor, or on any court-martial ordered by proper authority, may, at the discretion of the adjutant general, be paid a sum equal to one day's active state service for each day actually employed on the board or court or engaged in the business thereof, or in traveling to and from the same; and in addition thereto travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended when such duty is at a place other than the city or town of his or her residence.

(5) Necessary transportation, quartermasters' stores, and subsistence for troops when ordered on active state service may be contracted for and paid for as are other military bills.

Passed by the House March 1, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 67

[Substitute House Bill 1148]

### ARCHITECTS--REGISTRATION AND PRACTICE

AN ACT Relating to architect registration; amending RCW 18.08.310, 18.08.350, and 18.08.360; and reenacting and amending RCW 18.08.320.

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

**Sec. 1.** RCW 18.08.310 and 2010 c 129 s 1 are each amended to read as follows:

(1) It is unlawful for any person to practice or offer to practice architecture in this state, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description including the word "architect," "architecture," "architectural," or language tending to imply that he or she is an architect, unless the person is registered or authorized to practice in the state of Washington under this chapter.

(2) An architect or architectural firm registered in any other jurisdiction recognized by the board may offer to practice architecture in this state if:

(a) It is clearly and prominently stated in such an offer that the architect or firm is not registered to practice architecture in the state of Washington; and

(b) Prior to practicing architecture or signing a contract to provide architectural services, the architect or firm must be registered to practice architecture in this state.

(3) A person who has an accredited architectural degree may use the title "~~((intern architect))~~ architectural associate" when enrolled in a structured ~~((intern))~~ training program recognized by the board and working under the direct supervision of an architect.

(4) The provisions of this section shall not affect the use of the words "architect," "architecture," or "architectural" where a person does not practice or offer to practice architecture.

**Sec. 2.** RCW 18.08.320 and 2010 c 129 s 2 are each reenacted and amended to read as follows:

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

(1) "Accredited architectural degree" means a professional degree from an institution of higher education accredited by the national architectural accreditation board or an equivalent degree in architecture as determined by the board.

(2) "Administration of the construction contract" means the periodic observation of materials and work to observe the general compliance with the construction contract documents, and does not include responsibility for supervising construction methods and processes, site conditions, equipment operations, personnel, or safety on the work site.

(3) "Architect" means an individual who is registered under this chapter to practice architecture.

(4) "Board" means the state board for architects.

(5) "Certificate of authorization" means a certificate issued by the director to a business entity that authorizes the entity to practice architecture.

(6) "Certificate of registration" means the certificate issued by the director to newly registered architects.

(7) "Department" means the department of licensing.

(8) "Director" means the director of licensing.

(9) "Engineer" means an individual who is registered as an engineer under chapter 18.43 RCW.

(10) "Managers" means the members of a limited liability company in which management of its business is vested in the members, and the managers of a limited liability company in which management of its business is vested in one or more managers.

(11) "Person" means any individual, partnership, professional service corporation, corporation, joint stock association, joint venture, or any other entity authorized to do business in the state.

(12) "Practice of architecture" means the rendering of any service((s)) or related work requiring architectural education, training, and experience, in connection with the art and science of building design for construction of any structure or grouping of structures and the use of space within and surrounding the structures or the design for construction of alterations or additions to the structures, including but not specifically limited to predesign services, schematic

design, design development, preparation of construction contract documents, and administration of the construction contract.

(13) "Prototypical documents" means drawings or specifications, prepared by a person registered as an architect in any state or as otherwise approved by the board, that are not intended as final and complete technical submissions for a building project, but rather are to serve as a prototype for a building or buildings to be adapted by an architect for construction in more than one location.

(14) "Registered" means holding a currently valid certificate of registration or certificate of authorization issued by the director authorizing the practice of architecture.

(15) "Registered professional design firm" means a business entity registered in Washington to offer and provide architectural services under RCW 18.08.420.

(16) "Review" means a process of examination and evaluation, of the documents, for compliance with applicable laws, codes, and regulations affecting the built environment that includes the ability to control the final product.

(17) "Structure" means any construction consisting of load-bearing members such as the foundation, roof, floors, walls, columns, girders, and beams or a combination of any number of these parts, with or without other parts or appurtenances.

**Sec. 3.** RCW 18.08.350 and 2010 c 129 s 5 are each amended to read as follows:

(1) A certificate of registration shall be granted by the director to all qualified applicants who are certified by the board as having passed the required examination and as having given satisfactory proof of completion of the required experience.

(2) Applications for examination shall be filed as the board prescribes by rule. The application and examination fees shall be determined by the director under RCW 43.24.086.

(3) An applicant for registration as an architect shall be of a good moral character, at least eighteen years of age, and shall possess one of the following qualifications:

(a) Have an accredited architectural degree and ~~((at least three years' practical architectural work experience in))~~ complete a structured ~~((intern))~~ training program approved by the board; or

(b) Have a high school diploma or equivalent and at least ~~((nine))~~ eight years of practical architectural work experience, including the completion of a structured ~~((intern))~~ training program under the direct supervision of an architect as determined by the board. ~~((Prior to applying to enroll in a structured intern training program, the applicant must have at least six years of work experience, of which))~~ At least three of the years of required experience outside of the structured training program must be under the direct supervision of an architect. This work experience may include designing buildings as a principal activity and postsecondary education as determined by the board. The board may approve up to four years of practical architectural work experience for postsecondary education courses in architecture, architectural technology, or a related field, as determined by the board, including courses completed in a

community or technical college if the courses are equivalent to courses in an accredited architectural degree program.

**Sec. 4.** RCW 18.08.360 and 2010 c 129 s 6 are each amended to read as follows:

(1) The examination for an architect's certificate of registration shall be held at least annually at such time and place as the board determines.

(2) The board shall determine the content, scope, and grading process of the examination. The board may adopt an appropriate national examination and grading procedure.

(3) Applicants who fail to pass any section of the examination shall be permitted to retake the parts failed as prescribed by the board. Applicants have five years from the date of the first passed examination section to pass all remaining sections. If the entire examination is not successfully completed within five years, any sections that were passed more than five years prior must be retaken. If a candidate fails to pass all remaining sections within the initial five-year period, the candidate is given a new five-year period from the date of the second oldest passed section. All sections of the examination must be passed within a single five-year period for the applicant to be deemed to have passed the complete examination.

(4) Applicants for registration (~~(who have an accredited architectural degree)~~) may begin taking the examination upon enrollment in a structured (~~(intern)~~) training program as approved by the board. (~~(Applicants who do not possess an accredited architectural degree may take the examination only after completing the experience and intern training requirements of this chapter.)~~)

Passed by the House March 7, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 68

[House Bill 1177]

### DENTAL LABORATORIES

AN ACT Relating to creating the dental laboratory registry within the department of health and establishing minimum standards for dental laboratories serving dentists in Washington state; and adding a new chapter to Title 70 RCW.

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

**NEW SECTION. Sec. 1.** For the purposes of this chapter:

(1) "Certified dental technician" means a person certified by the national board for certification in dental laboratory technology.

(2) "Dental laboratory" means a facility that engages in the making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts.

(3) "Dentist" means an individual licensed to practice dentistry pursuant to chapter 18.32 RCW.

(4) "Department" means the department of health.

(5) "Material content disclosure" means a notice that contains the name, physical address, and registration number of the laboratory that received the dentist's work order and the city, state, and country of origin where the technological work was performed in whole or in part or laboratories that manufactured or repaired the dental prosthesis, either directly or indirectly, and the complete material content information of all patient contact materials used in a dental prosthetic appliance, including whether the United States food and drug administration compliant materials were used. The notice must be provided in a manner that can be easily entered into a patient record.

(6) "Work authorization" means a written instrument by which a dental laboratory subcontracts to another dental laboratory all or part of the manufacture or repair of a dental prosthetic appliance authorized by a work order from a licensed dentist.

(7) "Work order" means a written instrument prescribed by a licensed dentist directing a dental laboratory to manufacture or repair a dental prosthetic appliance for an individual patient.

**NEW SECTION. Sec. 2.** (1) Each dental laboratory operating, doing business, or intending to operate or do business in this state must register with the department and pay the fee established pursuant to sections 3 and 6 of this act.

(2) A dental laboratory is considered operating or doing business within this state if its work product is prepared pursuant to a work order or work authorization originating within this state.

(3) This chapter does not apply to a dental laboratory operating under the supervision of a practicing dentist licensed under chapter 18.32 RCW in a dental office or as a part of a dental practice, provided that the laboratory does not perform work pursuant to prescriptions or work orders originating from outside of the dental practice or supervising dentist's office, or in an educational institution as part of the institution's educational program provided that the laboratory does not routinely perform work pursuant to prescriptions or work orders originating from outside of the educational institution.

**NEW SECTION. Sec. 3.** (1) Each dental laboratory operating, doing business, or intending to operate or do business within this state must submit an application for registration of dental laboratory or renewal of registration of dental laboratory to the department on a form provided by the department accompanied with the registration or renewal fee required. The application must include:

(a) The name, mailing address, phone number, and email address of the dental laboratory;

(b) The physical address of the dental laboratory if different from the mailing address;

(c) The name, mailing address, phone number, and email address of the responsible person or the name and license number of the supervising dentist who is licensed under chapter 18.32 RCW;

(d) A statement that the dental laboratory meets the infectious control requirements under the occupational safety and health administration and the centers for disease control and prevention of the United States public health service;



(e) An acknowledgment by the responsible person or the supervising dentist that the laboratory will provide material disclosure to the prescribing dentist that contains the manufacturer and brand name or the United States food and drug administration registration number of all patient contact materials contained in the prescribed restoration in order that the dentist may include those numbers in the patient's record; and

(f) An acknowledgment by the responsible person or the supervising dentist who is licensed in this state that he or she will disclose to the prescribing dentist the point of origin of the manufacture of the prescribed restoration. If the restoration was partially or entirely manufactured by a third-party provider, the point of origin disclosure must identify the portion manufactured by a third-party provider and the city, state, and country of the provider.

(2) Each dental laboratory shall pay a registration fee annually as determined by the secretary as provided in RCW 43.70.250.

**NEW SECTION. Sec. 4.** (1) Upon granting a registration for a dental laboratory, the department shall assign the dental laboratory a dental registration number. The dental laboratory registration number must appear on all invoices or other correspondence of the dental laboratory.

(2) A dentist shall include the registration number of the dental laboratory on the dentist's work order.

**NEW SECTION. Sec. 5.** (1) Effective January 31, 2021, to be eligible for dental laboratory registration the applicant must document that the applicant or one of the applicant's employees who works at least thirty hours per week in the applicant's dental laboratory:

(a) Has successfully completed at least twelve hours of continuing education in dental laboratory technology approved by the national board for certification in dental laboratory technology during the twelve months immediately preceding their application for registration; or

(b) Is certified by the national board for certification in dental laboratory technology as a certified dental technician in good standing.

(2)(a) Effective January 31, 2025, the department may not issue a registration to a dental laboratory unless the applying dental laboratory documents that it employs a certified dental technician in good standing with the national board for certification in dental laboratory technology who works at least thirty hours per week in the applying dental laboratory or that the dental laboratory is operated under the supervision of a dentist licensed under chapter 18.32 RCW.

(b) Subsection (2)(a) of this section does not apply to a dental laboratory that provides the department with documentation that the dental laboratory has been continuously owned and operated by the same individual since January 1, 1996.

(3) A dental laboratory must maintain a qualified owner or employee identified in subsections (1) and (2) of this section.

**NEW SECTION. Sec. 6.** Each dental laboratory registered with the department must renew its registration before July 31st each year by completing and submitting a renewal of registration of dental laboratory form and paying a fee determined by the secretary as provided in RCW 43.70.280.

NEW SECTION. Sec. 7. If a dental laboratory violates any provision of this chapter, the department may, in the manner provided by law and upon the advice of the attorney general who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or other process against any dental laboratory to restrain or prevent the operation of the establishment without a registration issued under this chapter.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act do not apply to activities authorized under chapter 18.30 RCW.

NEW SECTION. Sec. 9. Sections 1 through 8 of this act constitute a new chapter in Title 70 RCW.

Passed by the House March 7, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 69

[Substitute House Bill 1198]

### HEALTH CARE PROVIDERS--SEXUAL MISCONDUCT--PATIENT NOTIFICATION

AN ACT Relating to requiring health care providers sanctioned for sexual misconduct to notify patients; adding a new section to chapter 18.130 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.130 RCW to read as follows:

(1) If a license holder subject to this chapter has been sanctioned by a disciplining authority on or after the effective date of this section for an act or acts of unprofessional conduct involving sexual misconduct, the license holder or his or her designee must provide a disclosure to any patient scheduled for an appointment with the license holder during the period of time that the license holder is subject to the order or stipulation. The disclosure must only be provided to a patient at or prior to the patient's first visit with the license holder following entry of the order or stipulation.

(2) The disclosure must include a copy of the public order or stipulation, a description of all sanctions placed on the license holder by the disciplining authority in the order or stipulation, the duration of all sanctions, the disciplining authority's telephone number, and an explanation of how the patient can find more information about the license holder on the disciplining authority's online license information web site.

(3) The license holder must provide the patient or the patient's surrogate decision maker as designated under RCW 7.70.065 with the disclosure indicating that the patient has received a copy of the public order or stipulation and is aware the provider has been sanctioned for unprofessional conduct involving sexual misconduct, which must be signed by the patient or a surrogate decision maker. A copy of the signed disclosure must be maintained in the patient's file.

(4) A disciplining authority may adopt rules to exempt certain types of sexual misconduct from the requirements of this section.

(5) This section does not apply to license holders subject to chapter 18.92 RCW.

(6) For purposes of this section:

(a) "Order" means an order issued by a disciplining authority including, but not limited to, an agreed order, default order, final order, or a reinstatement order, but does not include a summary restriction order.

(b) "Stipulation" means a stipulation to informal disposition.

NEW SECTION. Sec. 2. This act takes effect October 1, 2019.

Passed by the House March 4, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 70

[Substitute House Bill 1199]

### HEALTH CARE FOR WORKERS WITH DISABILITIES PROGRAM--VARIOUS PROVISIONS

AN ACT Relating to health care for working individuals with disabilities; amending RCW 74.09.540; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 74.09.540 and 2018 c 201 s 7019 are each amended to read as follows:

(1) It is the intent of the legislature to remove barriers to employment for individuals with disabilities by providing medical assistance to working individuals with disabilities through a buy-in program in accordance with section 1902(a)(10)(A)(ii) of the social security act and eligibility and cost-sharing requirements established by the authority.

(2) The authority shall establish ~~((income, resource, and))~~ cost-sharing requirements for the buy-in program in accordance with federal law and any conditions or limitations specified in the omnibus appropriations act. The authority shall establish and modify eligibility and cost-sharing requirements in order to administer the program within available funds. The authority may consider a person's income when establishing cost-sharing requirements. The authority may not establish eligibility restrictions for the buy-in program based upon a person's income or maximum age. The authority shall make every effort to coordinate benefits with employer-sponsored coverage available to the working individuals with disabilities receiving benefits under this chapter or other applicable law.

(3) The authority shall seek federal approval to exclude resources accumulated in a separate account that results from earnings during an individual's enrollment in the buy-in program when determining the individual's subsequent eligibility for another medical assistance program.

NEW SECTION. Sec. 2. This act takes effect January 1, 2020.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House March 4, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 71

[House Bill 1208]

### PUBLIC ACCOUNTING SERVICES--VARIOUS PROVISIONS

AN ACT Relating to public accounting services; amending RCW 18.04.055, 18.04.195, 18.04.195, 18.04.205, 18.04.345, and 18.04.345; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 18.04.055 and 2016 c 127 s 2 are each amended to read as follows:

The board may adopt and amend rules under chapter 34.05 RCW for the orderly conduct of its affairs. The board shall prescribe rules consistent with this chapter as necessary to implement this chapter. Included may be:

- (1) Rules of procedure to govern the conduct of matters before the board;
- (2) Rules of professional conduct for all licensees, certificate holders, and nonlicensee owners of licensed firms, in order to establish and maintain high standards of competence and ethics including rules dealing with independence, integrity, objectivity, and freedom from conflicts of interest;
- (3) Rules specifying actions and circumstances deemed to constitute holding oneself out as a licensee in connection with the practice of public accountancy;
- (4) Rules specifying the manner and circumstances of the use of the titles "certified public accountant" and "CPA," by holders of certificates who do not also hold licenses under this chapter;
- (5) Rules specifying the educational requirements to take the certified public accountant examination;
- (6) Rules designed to ensure that licensees' "reports" meet the definitional requirements for that term as specified in RCW 18.04.025;
- (7) Requirements for CPE to maintain or improve the professional competence of licensees as a condition to maintaining their license and certificate holders as a condition to maintaining their certificate under RCW 18.04.215;
- (8) Rules governing firms issuing or offering to issue attest or compilation reports or providing public accounting services as defined in RCW 18.04.025 using the title "certified public accountant" or "CPA" including, but not limited to, rules concerning their style, name, title, and affiliation with any other organization, and establishing reasonable practice and ethical standards to protect the public interest;
- (9) The board may by rule implement a quality assurance review program as a means to monitor licensees' quality of practice and compliance with professional standards. The board may exempt from such program, licensees who undergo periodic peer reviews in programs of the American Institute of Certified Public Accountants, NASBA, or other programs recognized and approved by the board;

(10) The board may by rule require licensed firms to obtain professional liability insurance if in the board's discretion such insurance provides additional and necessary protection for the public;

(11) Rules specifying the experience requirements in order to qualify for a license;

(12) Rules specifying the requirements for certificate holders to qualify for a license under this chapter which must include provisions for meeting CPE and experience requirements prior to application for licensure;

(13) Rules specifying the registration requirements, including ethics examination and fee requirements, for resident nonlicensee partners, shareholders, and managers of licensed firms;

(14) Rules specifying the ethics CPE requirements for certificate holders and owners of licensed firms, including the process for reporting compliance with those requirements;

(15) Rules specifying the experience and CPE requirements for licensees offering or issuing reports; and

(16) Any other rule which the board finds necessary or appropriate to implement this chapter.

**Sec. 2.** RCW 18.04.195 and 2018 c 224 s 4 are each amended to read as follows:

(1) The board shall grant or renew licenses to practice as a CPA firm to applicants that demonstrate their qualifications therefore in accordance with this section.

(a) The following must hold a license issued under this section:

(i) Any firm with an office in this state performing or offering to perform attest services as defined in RCW 18.04.025(1) or compilations as defined in RCW 18.04.025(6); or

~~(ii) ((Any firm with an office in this state that uses the title "CPA" or "CPA firm"; or~~

~~(iii)))~~ Any firm that does not have an office in this state but offers or renders attest services described in RCW 18.04.025 in this state, unless it meets each of the following requirements:

(A) Complies with the qualifications described in subsection (3)(c), (4)(a), or (5)(c) of this section;

(B) Meets the board's quality assurance review program requirements authorized by RCW 18.04.055(9) and the rules implementing such section;

(C) Performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(D) Can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(b) A chartered professional accounting firm registered in the Canadian province of British Columbia may provide compilation or attest services in accordance with RCW 18.04.350(15) without obtaining a Washington state CPA firm license.

(c) A firm that is not subject to the requirements of subsection (1)(a) of this section may perform compilation services described in RCW 18.04.025(6) and other nonattest professional services while using the title "CPA" or "CPA firm" in this state without a license issued under this section only if:

(i) The firm performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(ii) The firm can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(2) A sole proprietorship that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license, as a firm, every three years with the board.

(a) The sole proprietor shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a sole proprietorship that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office located in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215; and

(c) The licensed firm must meet requirements established by rule by the board.

(3) A partnership that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one general partner of the partnership shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a partnership that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal partner of the partnership and any partner having authority over issuing reports shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet requirements established by rule by the board.

(4) A corporation that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board and shall meet the following requirements:

(a) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all shareholders or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state and is principally employed by the corporation or actively engaged in its business. The principal officer of the corporation and any officer or director having authority over issuing reports shall hold a license under this chapter or issued by another state;

(b) At least one shareholder of the corporation shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a corporation that must obtain a

license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(c) Each resident individual in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(d) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding;

(e) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe; and

(f) The licensed firm must meet requirements established by rule by the board.

(5) A limited liability company that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one member of the limited liability company shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a limited liability company that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident manager or member in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal member or manager of the limited liability company and any member having authority over issuing reports shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet requirements established by rule by the board.

(6) Application for a license as a firm with an office in this state shall be made upon the affidavit of the proprietor or individual designated as managing partner, member, or shareholder for Washington. This individual shall hold a license under RCW 18.04.215.

(7) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(iii) of this section, the application for the firm license shall be made upon the affidavit of an individual who qualifies for practice privileges in this state under RCW 18.04.350(2) who has been authorized by the applicant firm to make the application. The board shall determine in each case whether the applicant is eligible for a license.

(8) The board shall be given notification within ninety days after the admission or withdrawal of a partner, shareholder, or member engaged in this state in the practice of public accounting from any partnership, corporation, or limited liability company so licensed.

(9) Licensed firms that fall out of compliance with the provisions of this section due to changes in firm ownership, after receiving or renewing a license, shall notify the board in writing within ninety days of its falling out of compliance and propose a time period in which they will come back into compliance. The board may grant a reasonable period of time for a firm to be in compliance with the provisions of this section. Failure to bring the firm into compliance within a reasonable period of time, as determined by the board, may result in suspension, revocation, or imposition of conditions on the firm's license.

(10) Fees for the license as a firm and for notification of the board of the admission or withdrawal of a partner, shareholder, or member shall be determined by the board. Fees shall be paid by the firm at the time the license application form or notice of admission or withdrawal of a partner, shareholder, or member is filed with the board.

(11) Nonlicensee owners of licensed firms are:

(a) Required to fully comply with the provisions of this chapter and board rules;

(b) Required to be an individual;

(c) Required to be of good character, as defined in RCW 18.04.105(1)(a), and an active individual participant in the licensed firm or affiliated entities as these terms are defined by board rule; and

(d) Subject to discipline by the board for violation of this chapter.

(12) Resident nonlicensee owners of licensed firms are required to meet:

(a) The ethics examination, registration, and fee requirements as established by the board rules; and

(b) The ethics CPE requirements established by the board rules.

(13)(a) Licensed firms must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee firm owner by any federal or other state agency related to the licensee's practice of public accounting or violation of ethical or technical standards established by board rule; or

(iii) The licensed firm is notified that it has been charged with a violation of law that could result in the suspension or revocation of the firm's license by a federal or other state agency, as identified by board rule, related to the firm's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees to report to the board sanctions or orders relating to the licensee's practice of public accounting or violation of ethical or technical standards entered against the licensee by a nongovernmental professionally related standard-setting entity.

**Sec. 3.** RCW 18.04.195 and 2016 c 127 s 4 are each amended to read as follows:

(1) The board shall grant or renew licenses to practice as a CPA firm to applicants that demonstrate their qualifications therefore in accordance with this section.



(a) The following must hold a license issued under this section:

(i) Any firm with an office in this state performing or offering to perform attest services as defined in RCW 18.04.025(1) or compilations as defined in RCW 18.04.025(6); or

(ii) (~~Any firm with an office in this state that uses the title "CPA" or "CPA firm"; or~~

~~(iii))~~ Any firm that does not have an office in this state but offers or renders attest services described in RCW 18.04.025 in this state, unless it meets each of the following requirements:

(A) Complies with the qualifications described in subsection (3)(c), (4)(a), or (5)(c) of this section;

(B) Meets the board's quality assurance review program requirements authorized by RCW 18.04.055(9) and the rules implementing such section;

(C) Performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(D) Can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(b) A firm that is not subject to the requirements of subsection (1)(a) of this section may perform compilation services described in RCW 18.04.025(6) and other nonattest professional services while using the title "CPA" or "CPA firm" in this state without a license issued under this section only if:

(i) The firm performs such services through an individual with practice privileges under RCW 18.04.350(2); and

(ii) The firm can lawfully do so in the state where said individuals with practice privileges have their principal place of business.

(2) A sole proprietorship that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license, as a firm, every three years with the board.

(a) The sole proprietor shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a sole proprietorship that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office located in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215; and

(c) The licensed firm must meet requirements established by rule by the board.

(3) A partnership that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one general partner of the partnership shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215, or, in the case of a partnership that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident individual in charge of an office in this state shall hold and renew a license to practice under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all partners or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal partner of the partnership and any partner having authority over issuing reports shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet requirements established by rule by the board.

(4) A corporation that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board and shall meet the following requirements:

(a) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all shareholders or owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state and is principally employed by the corporation or actively engaged in its business. The principal officer of the corporation and any officer or director having authority over issuing reports shall hold a license under this chapter or issued by another state;

(b) At least one shareholder of the corporation shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a corporation that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(c) Each resident individual in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(d) A written agreement shall bind the corporation or its shareholders to purchase any shares offered for sale by, or not under the ownership or effective control of, a qualified shareholder, and bind any holder not a qualified shareholder to sell the shares to the corporation or its qualified shareholders. The agreement shall be noted on each certificate of corporate stock. The corporation may purchase any amount of its stock for this purpose, notwithstanding any impairment of capital, as long as one share remains outstanding;

(e) The corporation shall comply with any other rules pertaining to corporations practicing public accounting in this state as the board may prescribe; and

(f) The licensed firm must meet requirements established by rule by the board.

(5) A limited liability company that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 is required to obtain a license under subsection (1) of this section shall license as a firm every three years with the board, and shall meet the following requirements:

(a) At least one member of the limited liability company shall hold a license under RCW 18.04.105 and 18.04.215, or, in the case of a limited liability company that must obtain a license pursuant to subsection (1)(a)(iii) of this section, be a licensee of another state who meets the requirements in RCW 18.04.350(2);

(b) Each resident manager or member in charge of an office located in this state shall hold and renew a license under RCW 18.04.105 and 18.04.215;

(c) At least a simple majority of the ownership of the licensed firm in terms of financial interests and voting rights of all owners shall be held by persons who are licensees or holders of a valid license issued under this chapter or by another state. The principal member or manager of the limited liability company and any member having authority over issuing reports shall hold a license under this chapter or issued by another state; and

(d) The licensed firm must meet requirements established by rule by the board.

(6) Application for a license as a firm with an office in this state shall be made upon the affidavit of the proprietor or individual designated as managing partner, member, or shareholder for Washington. This individual shall hold a license under RCW 18.04.215.

(7) In the case of a firm licensed in another state and required to obtain a license under subsection (1)(a)(iii) of this section, the application for the firm license shall be made upon the affidavit of an individual who qualifies for practice privileges in this state under RCW 18.04.350(2) who has been authorized by the applicant firm to make the application. The board shall determine in each case whether the applicant is eligible for a license.

(8) The board shall be given notification within ninety days after the admission or withdrawal of a partner, shareholder, or member engaged in this state in the practice of public accounting from any partnership, corporation, or limited liability company so licensed.

(9) Licensed firms that fall out of compliance with the provisions of this section due to changes in firm ownership, after receiving or renewing a license, shall notify the board in writing within ninety days of its falling out of compliance and propose a time period in which they will come back into compliance. The board may grant a reasonable period of time for a firm to be in compliance with the provisions of this section. Failure to bring the firm into compliance within a reasonable period of time, as determined by the board, may result in suspension, revocation, or imposition of conditions on the firm's license.

(10) Fees for the license as a firm and for notification of the board of the admission or withdrawal of a partner, shareholder, or member shall be determined by the board. Fees shall be paid by the firm at the time the license application form or notice of admission or withdrawal of a partner, shareholder, or member is filed with the board.

(11) Nonlicensee owners of licensed firms are:

(a) Required to fully comply with the provisions of this chapter and board rules;

(b) Required to be an individual;

(c) Required to be of good character, as defined in RCW 18.04.105(1)(a), and an active individual participant in the licensed firm or affiliated entities as these terms are defined by board rule; and

(d) Subject to discipline by the board for violation of this chapter.

(12) Resident nonlicensee owners of licensed firms are required to meet:

(a) The ethics examination, registration, and fee requirements as established by the board rules; and

(b) The ethics CPE requirements established by the board rules.

(13)(a) Licensed firms must notify the board within thirty days after:

(i) Sanction, suspension, revocation, or modification of their professional license or practice rights by the securities exchange commission, internal revenue service, or another state board of accountancy;

(ii) Sanction or order against the licensee or nonlicensee firm owner by any federal or other state agency related to the licensee's practice of public accounting or violation of ethical or technical standards established by board rule; or

(iii) The licensed firm is notified that it has been charged with a violation of law that could result in the suspension or revocation of the firm's license by a federal or other state agency, as identified by board rule, related to the firm's professional license, practice rights, or violation of ethical or technical standards established by board rule.

(b) The board must adopt rules to implement this subsection and may also adopt rules specifying requirements for licensees to report to the board sanctions or orders relating to the licensee's practice of public accounting or violation of ethical or technical standards entered against the licensee by a nongovernmental professionally related standard-setting entity.

**Sec. 4.** RCW 18.04.205 and 2016 c 127 s 6 are each amended to read as follows:

(1) Each office established or maintained in this state for the purpose of offering to issue or issuing reports in this state (~~or that uses the title "certified public accountant" or "CPA,"~~) shall register with the board under this chapter every three years.

(2) Each office established or maintained in this state shall be under the direct supervision of a resident licensee holding a license under RCW 18.04.105 and 18.04.215.

(3) The board shall by rule prescribe the procedure to be followed to register and maintain offices established in this state for the purpose of offering to issue or issuing attest or compilation reports (~~or that use the title "certified public accountant" or "CPA").~~ ("")

(4) Fees for the registration of offices shall be determined by the board. Fees shall be paid by the applicant at the time the registration form is filed with the board.

**Sec. 5.** RCW 18.04.345 and 2018 c 224 s 6 are each amended to read as follows:

(1) Except when performing services as an employee or owner of a firm (~~operating~~) that performs or offers to perform attest or compilation services as defined in RCW 18.04.025 in accordance with RCW 18.04.350(15), no individual may assume or use the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant-inactive or CPA-inactive unless the individual holds a certificate. Individuals holding only a certificate may not practice public accounting.

(2) No individual may hold himself or herself out to the public or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant or CPA unless the individual

qualifies for the privileges authorized by RCW 18.04.350(2) or holds a license under RCW 18.04.105 and 18.04.215, or is providing compilation or attest services as an employee or owner of a firm operating in accordance with RCW 18.04.350(15).

(3) No firm with an office in this state may perform or offer to perform attest services as defined in RCW 18.04.025(1) or compilation services as defined in RCW 18.04.025(6) (~~or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants or CPAs,~~) unless the firm is licensed under RCW 18.04.195 and all offices of the firm in this state are maintained and registered under RCW 18.04.205. This subsection does not limit the services permitted under RCW 18.04.350(10) by persons not required to be licensed under this chapter, nor does it prohibit compilation or attest services performed in accordance with RCW 18.04.350(15).

(4) No firm may perform the services defined in RCW 18.04.025(1) in this state unless the firm is licensed under RCW 18.04.195, renews the firm license as required under RCW 18.04.215, and all offices of the firm in this state are maintained and registered under RCW 18.04.205. This subsection does not prohibit services performed in accordance with RCW 18.04.350(15).

(5) Except when performing services as an employee or owner of a firm operating in accordance with RCW 18.04.350(15), no individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA."

(6) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(7) Except when performing services as an employee or owner of a firm operating in accordance with RCW 18.04.350(15), no individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her business to any report prescribed by professional standards unless the individual holds a license to practice under RCW 18.04.105 and 18.04.215, a firm holds a license under RCW 18.04.195, and all of the individual's offices in this state are registered under RCW 18.04.205.

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW 18.04.350(2);

(b) Is licensed under RCW 18.04.105 and 18.04.215, and all of the individual's offices in this state are maintained and registered under RCW 18.04.205; or

(c) Is performing services as an employee or owner of a firm in accordance with the provisions of RCW 18.04.350(15).

(9) No individual, partnership, limited liability company, or corporation not holding a license to practice under RCW 18.04.105 and 18.04.215, or firm not licensed under RCW 18.04.195 or firm not registering all of the firm's offices in this state under RCW 18.04.205, or not qualified for the practice privileges authorized by RCW 18.04.350(2), or not operating in accordance with the provisions of RCW 18.04.350(15), may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(10) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350(2) are deemed substantially equivalent to licensees under RCW 18.04.105 and 18.04.215, every word, term, or reference that includes the latter shall be deemed to include the former, provided the conditions of such practice privilege, as set forth in RCW 18.04.350 (4) and (5) are maintained.

(11) Notwithstanding anything to the contrary in this section, it is not a violation of this section for a firm that does not hold a valid license under RCW 18.04.195 and that does not have an office in this state to use the title "CPA" or "certified public accountant" as part of the firm's name and to provide its professional services in this state, and licensees and individuals with practice privileges may provide services on behalf of such firms so long as it complies with the requirements of RCW 18.04.195(1). An individual or firm authorized under this subsection to use practice privileges in this state must comply with the requirements otherwise applicable to licensees in this section.

**Sec. 6.** RCW 18.04.345 and 2016 c 127 s 5 are each amended to read as follows:

(1) No individual may assume or use the designation "certified public accountant-inactive" or "CPA-inactive" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant-inactive or CPA-inactive unless the individual holds a certificate. Individuals holding only a certificate may not practice public accounting.

(2) No individual may hold himself or herself out to the public or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the individual is a certified public accountant or CPA unless the individual qualifies for the privileges authorized by RCW 18.04.350(2) or holds a license under RCW 18.04.105 and 18.04.215.

(3) No firm with an office in this state may perform or offer to perform attest services as defined in RCW 18.04.025(1) or compilation services as defined in RCW 18.04.025(6) (~~or assume or use the designation "certified public accountant" or "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants or CPAs,~~) unless the firm is licensed under RCW 18.04.195 and all offices of the firm in this state are maintained and registered under RCW 18.04.205. This subsection does not limit the services permitted

under RCW 18.04.350(10) by persons not required to be licensed under this chapter.

(4) No firm may perform the services defined in RCW 18.04.025(1) in this state unless the firm is licensed under RCW 18.04.195, renews the firm license as required under RCW 18.04.215, and all offices of the firm in this state are maintained and registered under RCW 18.04.205.

(5) No individual, partnership, limited liability company, or corporation offering public accounting services to the public may hold himself, herself, or itself out to the public, or assume or use along, or in connection with his, hers, or its name, or any other name the title or designation "certified accountant," "chartered accountant," "licensed accountant," "licensed public accountant," "public accountant," or any other title or designation likely to be confused with "certified public accountant" or any of the abbreviations "CA," "LA," "LPA," or "PA," or similar abbreviations likely to be confused with "CPA."

(6) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(7) No individual with an office in this state may sign, affix, or associate his or her name or any trade or assumed name used by the individual in his or her business to any report prescribed by professional standards unless the individual holds a license to practice under RCW 18.04.105 and 18.04.215, a firm holds a license under RCW 18.04.195, and all of the individual's offices in this state are registered under RCW 18.04.205.

(8) No individual licensed in another state may sign, affix, or associate a firm name to any report prescribed by professional standards, or associate a firm name in conjunction with the title certified public accountant, unless the individual:

(a) Qualifies for the practice privileges authorized by RCW 18.04.350(2); or

(b) Is licensed under RCW 18.04.105 and 18.04.215, and all of the individual's offices in this state are maintained and registered under RCW 18.04.205.

(9) No individual, partnership, limited liability company, or corporation not holding a license to practice under RCW 18.04.105 and 18.04.215, or firm not licensed under RCW 18.04.195 or firm not registering all of the firm's offices in this state under RCW 18.04.205, or not qualified for the practice privileges authorized by RCW 18.04.350(2), may hold himself, herself, or itself out to the public as an "auditor" with or without any other description or designation by use of such word on any sign, card, letterhead, or in any advertisement or directory.

(10) For purposes of this section, because individuals practicing using practice privileges under RCW 18.04.350(2) are deemed substantially equivalent to licensees under RCW 18.04.105 and 18.04.215, every word, term, or reference that includes the latter shall be deemed to include the former, provided the conditions of such practice privilege, as set forth in RCW 18.04.350 (4) and (5) are maintained.

(11) Notwithstanding anything to the contrary in this section, it is not a violation of this section for a firm that does not hold a valid license under RCW 18.04.195 and that does not have an office in this state to use the title "CPA" or "certified public accountant" as part of the firm's name and to provide its professional services in this state, and licensees and individuals with practice

privileges may provide services on behalf of such firms so long as it complies with the requirements of RCW 18.04.195(1). An individual or firm authorized under this subsection to use practice privileges in this state must comply with the requirements otherwise applicable to licensees in this section.

NEW SECTION. Sec. 7. Sections 2 and 5 of this act expire June 30, 2023.

NEW SECTION. Sec. 8. Sections 3 and 6 of this act take effect June 30, 2023.

Passed by the House February 14, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 72

[Substitute House Bill 1210]

### SCHOOL ENROLLMENT--NONRESIDENT CHILDREN FROM MILITARY FAMILIES

AN ACT Relating to allowing nonresident children from military families to enroll in Washington's public schools prior to arrival in the state; and adding a new section to chapter 28A.225 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.225 RCW to read as follows:

(1)(a) A child of a military family complies with the residency requirements for enrollment in a school district if a parent of the child is transferred to, or is pending transfer to, a military installation within the state while on active duty pursuant to official military orders.

(b) A parent of the child must provide to the school district proof of residence in the school district within fourteen days of the arrival date provided on official military documentation. The parent may use the address of any of the following as proof of residence in the school district:

(i) A temporary on-base billeting facility;

(ii) A purchased or leased residence, or a signed purchase and sale agreement or lease agreement for a residence; or

(iii) Any federal government housing or off-base military housing, including off-base military housing that may be provided through a public-private venture.

(2) A school district shall accept, on a conditional basis, an application for enrollment and course registration, including enrollment in a specific school or program within the school district, by electronic means for children of military families who meet the requirements of subsection (1)(a) of this section. Upon satisfaction of the requirements of subsection (1)(b) of this section, the school district shall finalize the enrollment of children of military families.

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

(a) "Active duty" has the same meaning as in RCW 28A.705.010.

(b) "Child of a military family" and "children of military families" have the same meaning as "children of military families" in RCW 28A.705.010.

(c) "Military installation" has the same meaning as in RCW 28A.705.010.



(d) "Parent" means a parent, guardian, or other person or entity having legal custody of a child of a military family.

Passed by the House March 4, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 73

[Engrossed House Bill 1219]

### REAL ESTATE EXCISE TAXES--AFFORDABLE HOUSING AND HOMELESSNESS PROJECTS

AN ACT Relating to providing cities and counties authority to use real estate excise taxes to support affordable housing and homelessness projects; amending RCW 82.46.035 and 82.46.037; and creating a new section.

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

\***NEW SECTION.** *Sec. 1.* The legislature finds that homelessness has reached a crisis level across Washington state. Every community has felt the impact as affordable housing continues to be out of reach for many residents of the state. Therefore, the legislature intends to help provide cities and counties with the flexibility and tools to take on this crisis by investing in facilities and projects that keep people in homes, provide the services that can help prevent people from entering homelessness, and ensure affordable housing in every community.

*\*Sec. 1 was vetoed. See message at end of chapter.*

**Sec. 2.** RCW 82.46.035 and 2011 c 354 s 3 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city that plans under RCW 36.70A.040(1) may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. Any county choosing to plan under RCW 36.70A.040(2) and any city within such a county may only adopt an ordinance imposing the excise tax authorized by this section if the ordinance is first authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters.

(3) Revenues generated from the tax imposed under subsection (2) of this section must be used by such counties and cities solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan. However, revenues (a) pledged by such counties and cities to debt retirement prior to March 1, 1992, may continue to be used for that purpose until the

original debt for which the revenues were pledged is retired, or (b) committed prior to March 1, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(4) Revenues generated by the tax imposed by this section must be deposited in a separate account.

(5) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for:

(a) Planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems(~~(, and)~~);

(b) Planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and

(c) Until January 1, 2026, planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of facilities for those experiencing homelessness and affordable housing projects.

(6) A county or city may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars, for capital projects as defined in subsection (5)(c) of this section. The limits in this subsection do not apply to any county or city that used revenue under this section for the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless prior to June 30, 2019.

(7) A county or city using funds for in subsection (5)(c) of this section must document in its plan under RCW 36.70A.070(3) that it has funds during the next two years for capital projects in subsection (5)(a) of this section.

(8) When the governor files a notice of noncompliance under RCW 36.70A.340 with the secretary of state and the appropriate county or city, the county or city's authority to impose the additional excise tax under this section is temporarily rescinded until the governor files a subsequent notice rescinding the notice of noncompliance.

~~((7) From June 30, 2012, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty-five percent of available funds under this section, but not to exceed one million dollars per year, for operations and maintenance of existing capital projects as defined in subsection (5) of this section, and counties may use available funds under this section for the payment of existing debt service incurred for capital projects as defined in RCW 82.46.010. If a county uses available funds for payment of existing debt service under RCW 82.46.010, the total amount used for payment of debt service and any amounts used for operations and maintenance is subject to the limits in this subsection.))~~

**Sec. 3.** RCW 82.46.037 and 2017 3rd sp.s. c 16 s 6 are each amended to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars per year, from revenues collected under RCW 82.46.035 for:

(a) The maintenance of capital projects, as defined in RCW 82.46.035(5); and

(b) ~~((From July 1, 2017, until June 30, 2019, the acquisition, construction, improvement, or rehabilitation of facilities to provide housing for the homeless; or~~

~~(e))~~) The planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of capital projects as defined in RCW 82.46.010(6)(b) that are not also included within the definition of capital projects in RCW 82.46.035(5).

(2) A city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.035(5), identified in its capital facilities plan for the succeeding two-year period; and

(b)(i) The city or county has not enacted, after June 9, 2016, any requirement on the listing or sale of real property; or any requirement on landlords, at the time of executing a lease, to perform or provide physical improvements or modifications to real property or fixtures, except if necessary to address an immediate threat to health or safety;

(ii) Any local requirement adopted by the city or county under (b)(i) of this subsection is: Specifically authorized by RCW 35.80.030, 35A.11.020, chapter 7.48 RCW, or chapter 19.27 RCW; specifically authorized by other state or federal law; or a seller or landlord disclosure requirement pursuant to RCW 64.06.080; or

(iii) For a city or county using funds under subsection (1)(b) of this section, the requirements of this subsection apply, except that the date for such enactment under (b)(i) of this subsection is ninety days after October 19, 2017.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.035 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.035 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

Passed by the House March 5, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 19, 2019, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 22, 2019.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 1, Engrossed House Bill No. 1219 entitled:

"AN ACT Relating to providing cities and counties authority to use real estate excise taxes to support affordable housing and homelessness projects."

We are indeed facing a severe housing shortage in this state and across our nation, and I strongly support this bill. Some towns have already used this increased flexibility in the use of Real Estate Excises Taxes to provide critical shelters and services for families. Extending the timeline for the use of these funds provides cities and counties one of the tools necessary to plan for, acquire, and construct additional shelters and affordable housing in their communities.

However, I am concerned that the language in Section 1, the intent section, could be construed to imply that the use of the Real Estate Excise Tax is sufficient for every community to develop affordable housing and prevent people from entering homelessness. Much more work needs to be done in the areas of zoning and permitting; infrastructure development fees; tax incentives for affordable housing development; and innovative approaches to increase density, improve efficiency and reduce costs. I will work with interested members of the legislature on developing a comprehensive package of tools to help cities and counties adequately address these housing shortages.

For these reasons I have vetoed Section 1 of Engrossed House Bill No. 1219.

With the exception of Section 1, Engrossed House Bill No. 1219 is approved."

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## CHAPTER 74

[Senate Bill 5124]

### APPRAISAL MANAGEMENT COMPANIES--VARIOUS PROVISIONS

AN ACT Relating to appraisal management companies; amending RCW 18.310.040, 18.310.060, 18.310.090, and 18.310.120; and providing effective dates.

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

**Sec. 1.** RCW 18.310.040 and 2013 c 90 s 1 are each amended to read as follows:

(1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for ~~((two years))~~ one year and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3)(a) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of one hundred thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

(b) If the director determines that surety bonds are not readily available to appraisal management companies, the director may accept a cash bond or other

security in lieu of the surety bond required by this section. The security accepted in lieu of a surety bond must be in an amount equal to the penal sum of the required bond. All obligations and remedies relating to surety bonds apply to deposits and other security filed in lieu of surety bonds.

**Sec. 2.** RCW 18.310.060 and 2010 c 179 s 7 are each amended to read as follows:

(1) It is unlawful for an entity to engage or attempt to engage in business as an appraisal management company, to engage or attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a license issued by the department under this chapter.

(2) An application for the issuance or renewal of a license required by subsection (1) of this section must, at a minimum, include the following information:

- (a) Name of the entity seeking licensure;
- (b) Names under which the entity will do business;
- (c) Business address of the entity seeking licensure;
- (d) Phone contact information of the entity seeking licensure;
- (e) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state;
- (f) The name, address, and contact information for any individual or any corporation, partnership, or other business entity that owns ten percent or more of the appraisal management company;
- (g) The name, address, and contact information for a controlling person;
- (h) A certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company for work being done in this state holds a license or certificate in good standing under chapter 18.140 RCW;
- (i) A certification that the entity has a system in place to review the work of appraisers that are performing real estate appraisal services on a periodic basis and have a policy in place to require that the real estate appraisal services provided by the appraiser are being conducted in accordance with chapter 18.140 RCW and other applicable state and federal laws;
- (j) A certification that the entity maintains a detailed record of each service request that it receives and the appraiser that performs the real estate appraisal services under ~~((section 13 of this act))~~ RCW 18.310.130;
- (k) A certification that the entity maintains a complete copy of the completed appraisal report performed as a part of any request, for a minimum period of five years, or at least two years after final disposition of any judicial proceeding related to the assignment, under uniform standards of professional appraisal practice provisions, and that the appraisals must be provided to the department upon demand;
- (l) An irrevocable uniform consent to service of process, under RCW 18.310.080; and
- (m) Any other relevant information reasonably required by the department to obtain a license under the requirements of this chapter.

**Sec. 3.** RCW 18.310.090 and 2010 c 179 s 8 are each amended to read as follows:

(1) Each entity owning more than ten percent of an appraisal management company may not be(:

~~((a))~~ directly controlled (~~((by a person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked;))~~) or

~~((b))~~ More than ten percent) owned in whole or in part by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state.

(2) Each person that owns ~~((more than ten percent of))~~ an appraisal management company in whole or in part must(:

~~((a))~~ not have had a license or certificate to act as an appraiser refused, denied, canceled, or revoked in any state(;

(3) Owners of more than ten percent of an appraisal management company must:

~~((b))~~ (a) Be of good moral character, as determined by the department; and

~~((c))~~ (b) Submit to a background investigation under RCW 18.310.070.

~~((3))~~ (4) Each appraisal management company must certify to the department that it has reviewed each and every individual or entity that owns ~~((more than ten percent of))~~ the appraisal management company in whole or in part and that no such person or entity (~~((that owns more than ten percent of the appraisal management company))~~) is prohibited from owning an appraisal management company under this section.

~~((4))~~ (5) A person under this section may appeal an adjudicative proceeding involving a final decision of the director to deny, suspend, or revoke a license under chapter 18.235 RCW.

**Sec. 4.** RCW 18.310.120 and 2010 c 179 s 11 are each amended to read as follows:

(1) The provisions of this chapter do not apply to the following:

~~((1))~~ A department or unit within a financial institution that is subject to direct regulation by an agency of the United States government, or to regulation by an agency of this state, that receives a request for the performance of an appraisal from one employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser that is part of an appraiser panel) (a) An appraisal management company that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency; or

~~((2))~~ (b) An appraiser that enters into an agreement, whether written or otherwise, with another appraiser for the performance of an appraisal, and upon completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal.

(2) For the purposes of this section, "federal financial institution regulatory agency" means the same as in Title 12 U.S.C. Sec. 3350.

NEW SECTION. Sec. 5. (1) Section 1 of this act takes effect June 4, 2020.

(2) Sections 2 through 4 of this act take effect July 31, 2019.

Passed by the Senate January 30, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.  
 Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 75

[Engrossed Substitute Senate Bill 5131]

### MANUFACTURED/MOBILE OR PARK MODEL HOMES--FORECLOSURE AND DISTRAINT SALES

AN ACT Relating to sales of manufactured/mobile or park model homes at county treasurer's foreclosure or distraint sales; and amending RCW 46.12.700 and 84.56.070.

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

**Sec. 1.** RCW 46.12.700 and 2011 c 171 s 38 are each amended to read as follows:

(1) **Titling options.** An owner of a manufactured home shall establish ownership in the manufactured home by either:

- (a) Applying for a certificate of title as required under this chapter; or
- (b) Eliminating the certificate of title under chapter 65.20 RCW.

(2) **Exemption.** This section does not apply to a manufactured home held for resale by a dealer or manufacturer.

(3) **Transferring ownership.** (a) A registered owner of record must sign the certificate of title releasing the owner's interest when transferring ownership of a manufactured home. If the manufactured home was manufactured before June 15, 1976, the registered owner must sign an affidavit on a form approved by the department. The affidavit must state that the purchaser was notified that failure of the manufactured home to meet federal housing and urban development standards or failure of the manufactured home to meet a fire and safety inspection by the department of labor and industries may result in denial by a local jurisdiction of a permit to site the manufactured home.

(b) When a manufactured/mobile or park model home is sold at a county treasurer's foreclosure or distraint sale, the registered owner of record, legal owner on title, and the purchaser are not required to sign the certificate of title and title application to transfer title. Any lienholder interest in a manufactured/mobile or park model home is extinguished by the county treasurer's foreclosure or distraint sale, provided that such lienholder has been provided a copy of the notice of the sale at his or her last known address, by registered letter, at least thirty days prior to the date of sale.

(4) **Evidence of taxes paid.** Before accepting an application for a certificate of title for a manufactured home, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to provide evidence that any taxes due on the sale of the manufactured home under chapters 82.45 and 84.52 RCW have been paid. Acceptable evidence includes a copy of:

(a) The real estate excise tax affidavit that has been stamped by the county treasurer; or

(b) A treasurer certificate that is prepared by the treasurer of the county in which a used manufactured home is located and that states that all property taxes due upon the used manufactured home being sold have been satisfied.

(5) **County assessor notification.** The department shall notify the county assessor of the county where the manufactured home is located when ownership

of a manufactured home is transferred. The notification must include the name and address of the former owner and the new owner.

(6) **Title elimination.** The certificate of title for a manufactured home may be eliminated or not issued when the manufactured home is registered under chapter 65.20 RCW. If the certificate of title is eliminated or not issued, the application must be recorded in the county property records of the county where the real property to which the home is affixed is located. All vehicle license fees and taxes applicable to manufactured homes under this chapter are due and must be collected before recording the ownership with the county auditor.

(7) **Rules.** The department may adopt rules as necessary to implement this section.

**Sec. 2.** RCW 84.56.070 and 2015 c 95 s 8 are each amended to read as follows:

(1) The county treasurer must proceed to collect all personal property taxes after first completing the tax roll for the current year's collection.

(2) The treasurer must give notice by mail to all persons charged with personal property taxes, and if the taxes are not paid before they become delinquent, the treasurer must commence delinquent collection efforts. A delinquent collection charge for costs incurred by the treasurer may be added to the account.

(3) In the event that the treasurer is unable to collect the taxes when due under this section, the treasurer must prepare papers in distraint. The papers must contain a description of the personal property, the amount of taxes including any amounts deferred under chapters 84.37 and 84.38 RCW that are a lien on the personal property to be distrained, the amount of the accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner.

(a) The treasurer must without demand or notice distraint sufficient goods and chattels belonging to the person charged with the taxes to pay the same, with interest at the rate provided by law from the date of delinquency, together with all accruing costs. The treasurer must proceed to advertise the distraint by posting written notices in three public places in the county in which the property has been distrained, including the county courthouse. The notice must state the time when and place where the property will be sold.

(b) The county treasurer, or the treasurer's deputy, must tax the same fees for making the distraint and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution. Traveling fees must be computed from the county seat of the county to the place of making distraint.

(c) If the taxes for which the property is distrained, and the interest and costs accruing thereon, are not paid before the date appointed for the sale, which may not be less than ten days after the taking of the property, the treasurer or treasurer's designee must proceed to sell the property at public auction, or so much thereof as is sufficient to pay the taxes and any amounts deferred under chapters 84.37 and 84.38 RCW that are a lien on the property to be sold, with interest and costs. If there is any excess of money arising from the sale of any personal property, the treasurer must pay the excess less any cost of the auction to the owner of the property so sold or to his or her legal representative.



(d) If necessary to distraint any standing timber owned separately from the ownership of the land upon which the same may stand, or any fish trap, pound net, reef net, set net, or drag seine fishing location, or any other personal property as the treasurer determines to be incapable or reasonably impracticable of manual delivery, it is deemed to have been distrained and taken into possession when the treasurer has, at least thirty days before the date fixed for the sale thereof, filed with the auditor of the county wherein the property is located a notice in writing reciting that the treasurer has distrained the property. The notice must describe the property, give the name of the owner or reputed owner, the amount of the tax due, with interest, and the time and place of sale. A copy of the notice must also be sent to the owner or reputed owner at his or her last known address, by registered letter at least thirty days prior to the date of sale.

(e) If the county treasurer has reasonable grounds to believe that any personal property, including mobile homes, manufactured homes, or park model trailers, upon which taxes have been levied, but not paid, is about to be removed from the county where the property has been assessed, or is about to be destroyed, sold, or disposed of, the county treasurer may demand the taxes, without the notice provided for in this section, and if necessary distraint sufficient goods and chattels to pay the same.

(4) As an alternative to the sale procedure specified in this section, the county treasurer may conduct a public auction sale by electronic media pursuant to RCW 36.16.145.

Passed by the Senate February 15, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 76

[Substitute Senate Bill 5175]

### FIREFIGHTER SAFETY--BEST PRACTICES

AN ACT Relating to firefighter safety; and adding new sections to chapter 51.04 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 51.04 RCW to read as follows:

(1) The department must establish best practices to improve safety and health outcomes for firefighters, including best practices:

(a) For a proactive health and safety risk management system consisting of a joint employer and employee governance structure to oversee a continuous process of identification, evaluation, monitoring and controlling, and reporting safety and health hazards in the workplace;

(b) To reduce firefighter risk of exposure to carcinogens; and

(c) To prevent or reduce the risk of injuries and illness with particular focus on causes of compensable workers' compensation claims.

(2) Employers of firefighters who implement the best practices provided in subsection (1) of this section may be eligible for a premium discount as

determined by the department according to criteria established by the department.

(3) The department must consult with firefighters and employers of firefighters in establishing the best practices and criteria for a premium discount under this section.

(4) The department may update the best practices established under this section as appropriate.

(5) For the purposes of this section, "firefighter" has the same meaning as in RCW 41.26.030(17) (a) through (c).

**NEW SECTION. Sec. 2.** A new section is added to chapter 51.04 RCW to read as follows:

(1) The director is authorized to provide funding of up to two percent of the premiums paid in the prior year from the risk classes for firefighters as defined in RCW 41.26.030(17) (a) through (c) for the purposes of providing funding to employers of firefighters who have limited resources to purchase additional equipment and other gear that may be needed to follow best practices under section 1 of this act. The department may require matching funds from employers. An appropriation is not required for expenditures. Only employers who pay premiums to the state fund as defined in RCW 51.08.175 are eligible for funding under this section.

(2) The department may adopt rules if necessary to implement this section.

Passed by the Senate March 8, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 77

[Substitute Senate Bill 5305]

### ELECTRIC UTILITY WILDLAND FIRE PREVENTION--TASK FORCE

AN ACT Relating to electric utility wildland fire prevention; and adding a new section to chapter 76.04 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 76.04 RCW to read as follows:

(1) The commissioner shall convene a utility wildland fire prevention task force with electrical power distribution utilities by July 1, 2019, and no less than quarterly thereafter until December 1, 2020. The duties of the task force are to advise the department on issues including, but not limited to:

(a) Developing, for consideration by the department and individual electric utilities, a model agreement for managing danger trees and other vegetation that pose a risk of wildland fire and associated utility liability due to the proximity to electrical transmission wires and other utility equipment;

(b) Developing communication protocols and educational exchanges between the department and electric utilities for identifying and addressing issues relating to utility infrastructure to reduce the risks of wildland fires;

(c) Developing protocols, including thresholds, for implementing the relevant provisions of RCW 76.04.015 when the department's investigation involves electric utility infrastructure or potential electric utility liability;

(d) Creating rosters of certified wildland fire investigation firms or persons and third-party qualified utility operations personnel who may be called upon by the parties as appropriate; and

(e) Other issues brought forward by task force members.

(2) In consultation with the task force created in subsection (1) of this section, the department must:

(a) Make available the form of communication protocols and educational exchanges between the department and electric utilities;

(b) With the assistance of the task force, distribute a voluntary model danger tree management agreement to utilities for their consideration for execution with the department;

(c) Publish the protocols and thresholds described in subsection (1)(c) of this section;

(d) Issue a roster of third-party certified wildland fire investigators and qualified utility personnel that may assist the department or utility in understanding and reducing risks and liabilities from wildland fire. The department must update the roster of third-party certified wildland fire investigators and qualified utility personnel no less than every four years.

(3) The department must submit, in compliance with RCW 43.01.036, a preliminary report to the legislature by December 1, 2019, and a final report to the legislature by December 1, 2020, on the results of tasks identified in subsections (1) and (2) of this section and identification of legislation, if any, necessary to implement the recommendations of the task force.

(4) The commissioner or the commissioner's designee must chair the task force created in subsection (1) of this section and must appoint task force members. Task force membership should include:

(a) Entities providing retail electric service, including:

(i) One person representing each investor-owned utility;

(ii) Two persons representing municipal utilities;

(iii) Two persons representing public utility districts;

(iv) Two persons representing rural electric cooperatives;

(v) One person representing small forestland owners;

(vi) One person representing industrial forestland owners; and

(b) Other persons with expertise in wildland fire risk reduction and prevention.

(5) The commissioner or the commissioner's designee shall convene the initial meeting of the task force.

(6) Participation on the task force created in subsection (1) of this section is strictly voluntary and without compensation.

Passed by the Senate February 25, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 78

[Second Substitute Senate Bill 5352]

## WALLA WALLA WATERSHED MANAGEMENT-PILOT PROGRAM

AN ACT Relating to the Walla Walla watershed management pilot program; amending RCW 90.92.010, 90.92.050, and 90.92.060; amending 2009 c 183 s 20 (uncodified); providing an effective date; providing an expiration date; and declaring an emergency.

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

**Sec. 1.** RCW 90.92.010 and 2009 c 183 s 1 are each amended to read as follows:

The legislature finds that ~~((the Walla Walla watershed community faces substantial challenges in planning for future water use and meeting the needs of fish, farms, and people. The legislature further finds that the participants in the Walla Walla watershed planning group have demonstrated exceptional cooperation in developing an innovative water management concept that enhances flexibility in water use while protecting ecological functions))~~ participants in the Walla Walla watershed pilot program have demonstrated exceptional cooperation in developing and implementing an innovative water management concept that enhances flexibility in water use since convening in 2009. The legislature further finds that the existing authorities and structure of the pilot program must evolve to meet the growing water resource demands in the Walla Walla watershed and to protect and enhance ecological functions. As the next step in the process, the legislature intends to extend the Walla Walla pilot program through June 30, 2021, to allow the pilot to perform internal and external evaluations, build upon previous pilot program efforts, continue Walla Walla river flow enhancement technical work, and restructure this chapter to develop a thirty-year integrated water resource management strategic plan. The legislature ~~((also))~~ continues to recognize~~((s))~~ the significant contribution of former state representative William Grant's leadership in the creation of a Walla Walla pilot design to authorize local water management activity.

**Sec. 2.** RCW 90.92.050 and 2009 c 183 s 5 are each amended to read as follows:

(1) The board has the following authority, duties, and responsibilities:

(a) Assume the duties, responsibilities, and all current activities of the watershed planning unit and the initiating governments authorized in RCW 90.82.040;

(b) Develop strategic actions for the planning area by building on the watershed plan;

(c) Adopt and revise criteria, guidance, and processes to effectuate the purpose of this chapter;

(d) Administer the local water plan process;

(e) Oversee local water plan implementation;

(f) Manage banked water as authorized under this chapter;

(g) Acquire water rights by donation, purchase, or lease;

(h) Participate in local, state, tribal, federal, and multistate basin water planning initiatives and programs; and

(i) Enter into agreements with water rights holders to not divert water that becomes available as a result of local water plans, water banking activities, or other programs and projects endorsed by the board and the department.

(2) During the transition period of July 1, 2019, to June 30, 2021, the board shall:

(a) Participate with the department to complete, by June 30, 2020, a performance audit conducted by the state auditor's office within existing resources, and a financial audit funded with existing department resources, to evaluate the Walla Walla pilot program since 2008 and to incorporate audit findings and recommendations into a thirty-year integrated water resource management strategy;

(b) Continue working with the department, the Confederated Tribes of the Umatilla Indian Reservation, and other participants to advance the Walla Walla basin flow enhancement study and its recommendation, including any necessary environmental reviews for near-term actions;

(c) Collaborate with the department in the development of a thirty-year integrated water resource management strategic plan, including a draft and final programmatic environmental impact statement, and explore interstate agreements to maximize integrated water resource management;

(d) By November 1, 2020, jointly develop with the department a report to the legislature recommending the scope and scale of an integrated water resource management strategic plan, including a funding approach and organization structure, to achieve the desired outcome of improved and sustainable flows for fish, adequate water supplies for agriculture, municipal, and domestic water users, and improved habitat and floodplain functionality in the Walla Walla watershed; and

(e) Coordinate with the department's office of Columbia river to request funding to complete tasks required during the transition period.

(3) The board may acquire, purchase, hold, lease, manage, occupy, and sell real and personal property, including water rights, or any interest in water rights, enter into and perform all necessary contracts, appoint and employ necessary agents and employees, including an executive director and fix their compensation, employ contractors including contracts for professional services, and do all lawful acts required and expedient to carry out the purposes of this chapter.

~~((3))~~ (4) The board constitutes an independently funded entity, and may provide for its own funding as determined by the board. The board may solicit and accept grants, loans, and donations and may adopt fees for services it provides. The board may not impose taxes or acquire property, including water rights, by the exercise of eminent domain. The board may distribute available funds as grants or loans to local water plans or other water initiatives and projects that will further the goals of the board.

~~((4))~~ (5) The ability of the board to fully meet its duties under this chapter is dependent on the level of funding available to the board. If sufficient funding is not available to the board to carry out its duties, the board may, in consultation with the department, establish a plan that determines and sets priorities for implementation of the board's duties.

~~((5))~~ (6) The board, and its members and staff, acting in their official capacities, are immune from liability and are not subject to any cause of action or claim for damages arising from acts or omissions engaged in under this chapter.

~~((6))~~ (7) Upon the creation of the board, and for the duration of the board, the existing planning unit for the planning area, established under RCW 90.82.040, is dissolved and all assets, funds, files, planning documents, pending plans and grant applications, and other current activities of the planning unit are transferred to the board.

**Sec. 3.** RCW 90.92.060 and 2009 c 183 s 6 are each amended to read as follows:

The board, in collaboration with the department, must provide a written report to the legislature by ~~((December 1, 2012, December 1, 2015, and December 1, 2018. The report must summarize the actions, funding, and accomplishments of the board in the previous three years, and submit recommendations for improvement of the local water plan process. The 2018 report must also contain recommendations on the future of the board))~~ November 1, 2020, as described in RCW 90.92.050.

**Sec. 4.** 2009 c 183 s 20 (uncodified) is amended to read as follows:

This act expires June 30, ~~((2019))~~ 2021.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2019.

Passed by the Senate March 5, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 79

[Substitute Senate Bill 5399]

### CHILD RELOCATION--SUBSTANTIALLY EQUAL RESIDENTIAL TIME

AN ACT Relating to child relocation by a person with substantially equal residential time; amending RCW 26.09.430, 26.09.520, and 26.09.410; and adding a new section to chapter 26.09 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 26.09 RCW to read as follows:

(1) If the person proposing relocation of a child has substantially equal residential time:

(a) The presumption in RCW 26.09.520 does not apply; and

(b) In determining whether to restrict a parent's right to relocate with a child or in determining a modification of the court order as defined in RCW 26.09.410 based on the proposed relocation, the court shall make a determination in the best interests of the child considering the factors set forth in RCW 26.09.520.

(2) For the purposes of this section and RCW 26.09.430, "substantially equal residential time" includes arrangements in which forty-five percent or more of the child's residential time is spent with each parent. In determining the percentage, the court must (a) consider only time spent with parents and not any time ordered for nonparents under chapter 26.11 RCW; and (b) base its determination on the amount of time designated in the court order unless: (i)

There has been an ongoing pattern of substantial deviation from the residential schedule; (ii) both parents have agreed to the deviation; and (iii) the deviation is not based on circumstances that are beyond either parent's ability to control.

**Sec. 2.** RCW 26.09.430 and 2000 c 21 s 5 are each amended to read as follows:

Except as provided in RCW 26.09.460, a person with whom the child resides a majority of the time, or a person with substantially equal residential time, shall notify every other person entitled to residential time or visitation with the child under a court order if the person intends to relocate. Notice shall be given as prescribed in RCW 26.09.440 and 26.09.450.

**Sec. 3.** RCW 26.09.520 and 2000 c 21 s 14 are each amended to read as follows:

The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. There is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(2) Prior agreements of the parties;

(3) Whether disrupting the contact between the child and the person (~~with whom the child resides a majority of the time~~) seeking relocation would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(5) The reasons of each person for seeking or opposing the relocation and the good faith of each of the parties in requesting or opposing the relocation;

(6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

**Sec. 4.** RCW 26.09.410 and 2000 c 21 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 26.09.405 through 26.09.560 and 26.09.260 unless the context clearly requires otherwise.

(1) "Court order" means a temporary or permanent parenting plan, custody order, visitation order, or other order governing the residence of a child under this title.

(2) "Relocate" means a change in principal residence either permanently or for a protracted period of time, or a change in residence in cases where parents have substantially equal residential time as defined by section 1 of this act.

Passed by the Senate February 25, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 80

[Substitute Senate Bill 5403]

### ADULT FAMILY HOMES--SAFE EGRESS

AN ACT Relating to safe egress from adult family homes; and amending RCW 70.128.130.

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

**Sec. 1.** RCW 70.128.130 and 2012 c 164 s 704 are each amended to read as follows:

(1) The provider is ultimately responsible for the day-to-day operations of each licensed adult family home.

(2) The provider shall promote the health, safety, and well-being of each resident residing in each licensed adult family home.

(3) Adult family homes shall be maintained internally and externally in good repair and condition. Such homes shall have safe and functioning systems for heating, cooling, hot and cold water, electricity, plumbing, garbage disposal, sewage, cooking, laundry, artificial and natural light, ventilation, and any other feature of the home.

(4) In order to preserve and promote the residential home-like nature of adult family homes, adult family homes licensed after August 24, 2011, shall:

(a) Have sufficient space to accommodate all residents at one time in the dining and living room areas;

(b) Have hallways and doorways wide enough to accommodate residents who use mobility aids such as wheelchairs and walkers; and

(c) Have outdoor areas that are safe and accessible for residents to use.

(5) The adult family home must provide all residents access to resident common areas throughout the adult family home including, but not limited to, kitchens, dining and living areas, and bathrooms, to the extent that they are safe under the resident's care plan.

(6) Adult family homes shall be maintained in a clean and sanitary manner, including proper sewage disposal, food handling, and hygiene practices.

(7) Adult family homes shall develop a fire drill plan for emergency evacuation of residents, shall have working smoke detectors in each bedroom where a resident is located, shall have working fire extinguishers on each floor of the home, and shall ~~((not keep))~~ house nonambulatory ~~((patients above the first floor of the home))~~ residents on a level with safe egress to a public right-of-



way. Nonambulatory residents must have a bedroom on the floor of the home from which the resident can be evacuated to a designated safe location outside the home without the use of stairs, elevators, chair lifts, platform lifts, or other devices as determined by the department in rule.

(8) The adult family home shall ensure that all residents can be safely evacuated from the home in an emergency as established by the department in rule. The rules established by the department must be developed in consultation with the largest organization representing fire chiefs in the state of Washington.

(9) Adult family homes shall have clean, functioning, and safe household items and furnishings.

(10) Adult family homes shall provide a nutritious and balanced diet and shall recognize residents' needs for special diets.

(11) Adult family homes shall establish health care procedures for the care of residents including medication administration and emergency medical care.

(a) Adult family home residents shall be permitted to self-administer medications.

(b) Adult family home providers may administer medications and deliver special care only to the extent authorized by law.

(12) Adult family home providers shall either: (a) Reside at the adult family home; or (b) employ or otherwise contract with a qualified resident manager to reside at the adult family home. The department may exempt, for good cause, a provider from the requirements of this subsection by rule.

(13) A provider will ensure that any volunteer, student, employee, or person residing within the adult family home who will have unsupervised access to any resident shall not have been convicted of a crime listed under RCW 43.43.830 or 43.43.842, or been found to have abused, neglected, exploited, or abandoned a minor or vulnerable adult as specified in RCW 74.39A.056(2). A provider may conditionally employ a person pending the completion of a criminal conviction background inquiry, but may not allow the person to have unsupervised access to any resident.

(14) A provider shall offer activities to residents under care as defined by the department in rule.

(15) An adult family home must be financially solvent, and upon request for good cause, shall provide the department with detailed information about the home's finances. Financial records of the adult family home may be examined when the department has good cause to believe that a financial obligation related to resident care or services will not be met.

(16) An adult family home provider must ensure that staff are competent and receive necessary training to perform assigned tasks. Staff must satisfactorily complete department-approved staff orientation, basic training, and continuing education as specified by the department by rule. The provider shall ensure that a qualified caregiver is on-site whenever a resident is at the adult family home; any exceptions will be specified by the department in rule. Notwithstanding RCW 70.128.230, until orientation and basic training are successfully completed, a caregiver may not provide hands-on personal care to a resident without on-site supervision by a person who has successfully completed basic training or been exempted from the training pursuant to statute.

(17) The provider and resident manager must assure that there is:

(a) A mechanism to communicate with the resident in his or her primary language either through a qualified person on-site or readily available at all times, or other reasonable accommodations, such as language lines; and

(b) Staff on-site at all times capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations and be able to read and understand resident care plans.

Passed by the Senate March 4, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

**CHAPTER 81**

[Engrossed Senate Bill 5439]

**EMPLOYMENT SECURITY DEPARTMENT--CONFIDENTIALITY**

AN ACT Relating to confidentiality of employment security department records and data; amending RCW 50.13.020, 50.13.030, 50.13.040, 50.13.060, 50.13.070, 50.13.080, 50.13.100, and 42.56.410; adding new sections to chapter 50.13 RCW; and prescribing penalties.

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

**Sec. 1.** RCW 50.13.020 and 2004 c 121 s 5 are each amended to read as follows:

Any information or records concerning an individual or employing unit obtained by the employment security department (~~(of employment security)~~) pursuant to the administration of this title (~~(or other programs for which the department has responsibility)~~) shall be private and confidential, except as otherwise provided in this chapter. This chapter does not create a rule of evidence. Information or records may be released by the employment security department (~~(of employment security)~~) when the release is:

(1) Required by the federal government in connection with, or as a condition of funding for, a program being administered by the employment security department; or

(2) Requested by a county clerk for the purposes of RCW 9.94A.760.

The provisions of RCW 50.13.060 (1) (a), (b) and (c) will not apply to such release.

**Sec. 2.** RCW 50.13.030 and 2005 c 274 s 320 are each amended to read as follows:

The commissioner shall have the authority to adopt, amend, or rescind rules interpreting and implementing the provisions of this chapter. (~~In particular, these rules shall specify the procedure to be followed to obtain information or records to which the public has access under this chapter or chapter 42.56 RCW.~~)

**Sec. 3.** RCW 50.13.040 and 2005 c 274 s 321 are each amended to read as follows:

(1) An individual shall have access to all records and information concerning that individual held by the employment security department, unless the information is exempt from disclosure under RCW 42.56.410.

(2) An employing unit shall have access to its own records and to any records and information relating to a benefit claim by an individual if the

employing unit is either the individual's last employer or is the individual's base year employer.

(3) An employing unit shall have access to any records and information relating to any decision to allow or deny benefits if:

(a) The decision is based on employment or an offer of employment with the employing unit; or

(b) If the decision is based on material information provided by the employing unit.

(4) An employing unit shall have access to general summaries of benefit claims by individuals whose benefits are chargeable to the employing unit's experience rating or reimbursement account.

(5) The employment security department may disclose records and information deemed confidential under this chapter to a third party acting on behalf of an individual or employing unit that would otherwise be eligible to receive records under subsections (1) through (4) of this section when the employment security department receives a release from the individual, the employing unit, or the third party. The release must be signed and include a statement:

(a) Specifically identifying the information that is to be disclosed;

(b) That state government files will be accessed to obtain the information;

(c) Of the specific purpose or purposes for which the information is sought and that the information obtained under the release will only be used for that purpose or purposes; and

(d) Indicating all the parties who may receive the information disclosed.

**Sec. 4.** RCW 50.13.060 and 2011 1st sp.s. c 43 s 466 are each amended to read as follows:

(1) Unless otherwise required by federal law, only state and local governmental agencies(~~(, including law enforcement agencies, prosecuting agencies, and the executive branch, whether state, local, or federal shall)~~) and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act may have access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in (~~(writing to)~~) a manner specified by the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the employment security department; and

(b) The director, commissioner, chief executive, or other official of the agency requesting records or information has verified the need for the specific information (~~(in writing either on the application or on a separate document)~~); and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the employment security department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to

state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsection ~~((s)) (1) ((and (9)))~~ of this section shall not apply to the state legislative branch. The state legislature ~~((shall))~~ may have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes. ~~((If the employment security department does not make information or records available as provided in this subsection, the legislature may exercise its authority granted by chapter 44.16 RCW.))~~

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is defined as a situation in which irreparable harm or damage could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to state and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act where the procedures would frustrate the investigation of possible violations of criminal laws or to the release of employing unit names, addresses, number of employees, and aggregate employer wage data for the purpose of state governmental agencies preparing small business economic impact statements under chapter 19.85 RCW or preparing cost-benefit analyses under RCW 34.05.328(1) (c) and (d). ~~((Information provided by the department and held to be private and confidential under state or federal laws must not be misused or released to unauthorized parties. A person who misuses such information or releases such information to unauthorized parties is subject to the sanctions in RCW 50.13.080.))~~

(5) State and local governmental agencies ((shall)) and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act may have access to certain records or information ~~((; limited to such items as names, addresses, social security numbers, and general information about benefit entitlement or employer information possessed by the department.))~~ deemed private and confidential under this chapter for comparison purposes with records or information possessed by the requesting agency to detect improper or fraudulent claims, ~~((or))~~ to determine potential tax liability or employer compliance with registration and licensing requirements, or for reasons otherwise within the discharge of their official duties. In those cases the state or local governmental agency or federally recognized Indian tribe as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act shall not be required to comply with subsection (1)(c) of this section, but the

requirements of ~~((the remainder of))~~ subsection (1)(a) and (b) of this section must be satisfied.

(6) Governmental agencies may have access to certain records and information, limited to employer information possessed by the employment security department for purposes authorized in chapter 50.38 RCW. Access to these records and information is limited to only those individuals conducting authorized statistical analysis, research, and evaluation studies. Only in cases consistent with the purposes of chapter 50.38 RCW are governmental agencies not required to comply with subsection (1)(c) of this section, but the requirements of ~~((the remainder of))~~ subsection (1)(a) and (b) of this section must be satisfied. ~~((Information provided by the department and held to be private and confidential under state or federal laws shall not be misused or released to unauthorized parties subject to the sanctions in RCW 50.13.080.))~~

(7) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(8) The employment security department may provide information for purposes of statistical analysis and evaluation of the WorkFirst program or any successor state welfare program to the department of social and health services, the office of financial management, and other governmental entities with oversight or evaluation responsibilities for the program in accordance with RCW 43.20A.080. The confidential information provided by the employment security department shall remain the property of the employment security department and may be used by the authorized requesting agencies only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. The department of social and health services, the office of financial management, or other governmental entities with oversight or evaluation responsibilities for the program are not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section and applicable federal laws and regulations must be satisfied. The confidential information used for evaluation and analysis of welfare reform supplied to the authorized requesting entities with regard to the WorkFirst program or any successor state welfare program are exempt from public inspection and copying under chapter 42.56 RCW.

~~(9) ((The disclosure of any records or information by a governmental agency which has obtained the records or information under this section is prohibited unless the disclosure is (a) directly connected to the official purpose for which the records or information were obtained or (b) to another governmental agency which would be permitted to obtain the records or information under subsection (4) or (5) of this section.~~

~~(10))~~ In conducting periodic salary or fringe benefit studies pursuant to law, the office of financial management shall have access to records of the employment security department as may be required for such studies. For such purposes, the requirements of subsection (1)(c) of this section need not apply.

~~((11))~~ (10)(a) To promote the reemployment of job seekers, the commissioner may enter into data-sharing contracts with partners of the one-stop

~~((career development))~~ system established by P.L. 113-128 or its successor and identified as signatories of local memoranda of understanding. The contracts shall provide for the transfer of data only to the extent that the transfer is necessary for the efficient provisions of workforce programs, including but not limited to public labor exchange, unemployment insurance, worker training and retraining, vocational rehabilitation, vocational education, adult education, transition from public assistance, and support services. The transfer of information under contracts with one-stop partners is exempt from subsection (1)(c) of this section.

(b) An individual who applies for services from the employment security department and whose information will be shared under (a) of this subsection ~~((H1))~~ must be notified that his or her private and confidential information in the employment security department's records will be shared among the one-stop partners to facilitate the delivery of one-stop services to the individual. The notice must advise the individual that he or she may request that private and confidential information not be shared among the one-stop partners and the employment security department must honor the request. In addition, the notice must:

(i) Advise the individual that if he or she requests that private and confidential information not be shared among one-stop partners, the request will in no way affect eligibility for services;

(ii) Describe the nature of the information to be shared, the general use of the information by one-stop partner representatives, and among whom the information will be shared;

(iii) Inform the individual that shared information will be used only for the purpose of delivering one-stop services and that further disclosure of the information is prohibited under contract and is not subject to disclosure under chapter 42.56 RCW; and

(iv) Be provided in English and an alternative language selected by the one-stop center or job service center as appropriate for the community where the center is located.

If the notice is provided in-person, the individual who does not want private and confidential information shared among the one-stop partners must immediately advise the one-stop partner representative of that decision. The notice must be provided to an individual who applies for services telephonically, electronically, or by mail, in a suitable format and within a reasonable time after applying for services, which shall be no later than ten working days from the employment security department's receipt of the application for services. ~~((A one-stop representative must be available to answer specific questions regarding))~~ Information describing the nature, extent, and purpose for which the information may be shared must be available upon request.

~~((H2))~~ (11) To facilitate improved operation and evaluation of state programs, the commissioner may enter into data-sharing contracts with other state and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act, and by extension their agents, only to the extent that such transfer is necessary for the efficient operation or evaluation of outcomes for those programs. The transfer of information by contract under this subsection is exempt from subsection (1)(c) of this section.

~~((13) The misuse or unauthorized release of records or information by any person or organization to which access is permitted by this chapter subjects the person or organization to a civil penalty of five thousand dollars and other applicable sanctions under state and federal law. Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.))~~

**Sec. 5.** RCW 50.13.070 and 1977 ex.s. c 153 s 7 are each amended to read as follows:

Information or records deemed private and confidential under this chapter shall be available to parties to judicial or formal administrative proceedings only upon a written finding by the presiding officer that the need for the information or records in the proceeding outweighs any reasons for the privacy and confidentiality of the information or records. Information or records deemed private and confidential under this chapter shall not be available in discovery proceedings unless the court in which the action has been filed has made the finding specified above. A judicial or administrative subpoena directed to the employment security department must contain this finding. A subpoena for records or information ~~((held by the department may be directed to and served upon any employee of the department, but the department may specify by rule which employee shall produce the records or information in compliance with the subpoena))~~ under this section must be submitted in a manner prescribed by the employment security department. The employment security department may recover costs of responding to subpoenas, consistent with 20 C.F.R. Sec. 603.8 (2012), for proceedings where the employment security department is not a party.

**Sec. 6.** RCW 50.13.080 and 2005 c 274 s 323 are each amended to read as follows:

(1) The employment security department shall have the right to disclose information or records deemed private and confidential under this chapter to any private person or organization when such disclosure is necessary to permit private contracting parties to assist in the operation and management of the employment security department in instances where certain employment security departmental functions may be delegated to private parties to increase the employment security department's efficiency or quality of service to the public. The private persons or organizations shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as employment security department employees.

(2) Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.56.070~~((9))~~ (8).

~~((3) The misuse or unauthorized release of records or information deemed private and confidential under this chapter by any private person or organization to which access is permitted by this section shall subject the person or organization to a civil penalty of five thousand dollars and other applicable sanctions under state and federal law. Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall~~

~~be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.))~~

**Sec. 7.** RCW 50.13.100 and 1977 ex.s. c 153 s 10 are each amended to read as follows:

Nothing in this chapter shall prevent the disclosure of information or records deemed private and confidential under this chapter if all details identifying an individual or employing unit are deleted so long as the information or records cannot be foreseeably combined with other publicly available information to reveal the identity of an individual or employing unit or the individual or employing unit consents to the disclosure in a manner prescribed by the employment security department.

**NEW SECTION. Sec. 8.** A new section is added to chapter 50.13 RCW to read as follows:

(1) All private persons, governmental agencies, and organizations authorized to receive information from the employment security department under this chapter have an affirmative obligation to take all reasonable actions necessary that are designed to prevent the disclosure of confidential information.

(2) The disclosure of any records or information by a private person, governmental agency, or organization that obtained the records or information from the employment security department under this chapter is prohibited unless expressly permitted by this chapter.

(3) If misuse or an unauthorized disclosure of confidential records or information occurs, all parties aware of the violation must inform the employment security department immediately and take all reasonably available actions to rectify the disclosure to the employment security department's standards.

(4) The misuse or unauthorized disclosure of records or information deemed private and confidential under this chapter by any private person, governmental agency, or organization to which access is permitted by this chapter shall subject the person, governmental agency, or organization to a civil penalty of up to twenty thousand dollars in 2018 and annually adjusted by the employment security department on the first calendar day of each year based on changes in the United States consumer price index for all urban consumers. Other applicable sanctions under state and federal law also apply. The amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.

(5) Any redisclosure of information obtained under this chapter by a private person, governmental agency, or organization must be expressly permitted by the employment security department prior to redisclosure. Failure to obtain prior approval by the employment security department could subject the private person, governmental agency, or organization to the penalties described in subsection (4) of this section.

(6) State and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act are exempt from the penalties described in subsection (4) of this section if



the redisclosure is necessary for the state, local, or tribal government to conduct a criminal prosecution.

**NEW SECTION, Sec. 9.** A new section is added to chapter 50.13 RCW to read as follows:

(1) The employment security department shall designate an agency privacy officer to oversee the administration of this chapter and chapter 50A.--- RCW (the new chapter created in section . . . , chapter . . . (Z-0085/19), Laws of 2019. In coordination with the state office of privacy and data protection, the agency privacy officer must:

(a) Develop an agency personal information minimization policy to reduce the use and retention of personal information wherever possible;

(b) Create a work plan that includes the estimated costs of execution for the following:

(i) An inventory of all personal information prepared, owned, used, or retained by the employment security department, that would include the specific type of information, the purpose for its collection, and the extent to which the information is protected from unauthorized access; and

(ii) A map of the physical or digital location of all personal information collected by the employment security department, indexed to the inventory created in (b)(i) of this subsection; and

(c) Report the work plan created under (b) of this subsection to the state office of privacy and data protection annually.

(2) Any inventory or data map records created under subsection (1)(b) of this section that reveal the location of personal information or the extent to which it is protected may not be disclosed under the public records act, chapter 42.56 RCW.

(3) On December 1st of each odd-numbered year, the employment security department must report to the governor and the legislature on the implementation and maintenance of this section, including best practices and recommendations for developing and implementing the employment security department's policy and plan under this section.

(4) For purposes of this section, "personal information" means any information obtained by the employment security department deemed private and confidential under this chapter and chapter 50A.--- RCW (the new chapter created in section . . . , chapter . . . (Z-0085/19), Laws of 2019.

**Sec. 10.** RCW 42.56.410 and 2005 c 274 s 421 are each amended to read as follows:

The following information related to employment security is exempt from disclosure under this chapter:

(1) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes are exempt from disclosure under this chapter; and

(2) Any inventory or data map records created under section 9(1)(b) of this act that reveal the location of personal information or the extent to which it is protected.

**NEW SECTION, Sec. 11.** A new section is added to chapter 50.13 RCW to read as follows:

Except for section 9 of this act, the provisions of this chapter do not apply to information obtained by the employment security department under Title 50A RCW.

Passed by the Senate February 27, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 82

[Substitute Senate Bill 5461]

### MULTIDISCIPLINARY CHILD PROTECTION TEAMS--INFORMATION SHARING

AN ACT Relating to the sharing of information between participants in multidisciplinary coordination of child sexual abuse investigations; amending RCW 13.50.010 and 26.44.180; and adding a new section to chapter 26.44 RCW.

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

**Sec. 1.** RCW 13.50.010 and 2018 c 58 s 78 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Good faith effort to pay" means a juvenile offender has either (i) paid the principal amount in full; (ii) made at least eighty percent of the value of full monthly payments within the period from disposition or deferred disposition until the time the amount of restitution owed is under review; or (iii) can show good cause why he or she paid an amount less than eighty percent of the value of full monthly payments;

(b) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the oversight board for children, youth, and families, the office of the family and children's ombuds, the department of social and health services and its contracting agencies, the department of children, youth, and families and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(c) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, notices of hearing or appearance, service documents, witness and exhibit lists, findings of the court and court orders, agreements, judgments, decrees, notices of appeal, as well as documents prepared by the clerk, including court minutes, letters, warrants, waivers, affidavits, declarations, invoices, and the index to clerk papers;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(e) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services or the department of children, youth, and families relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) The court shall release to the caseload forecast council the records needed for its research and data-gathering functions. Access to caseload forecast data may be permitted by the council for research purposes only if the anonymity of all persons mentioned in the records or information will be preserved.

(10) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(11) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the oversight board for children, youth, and families or the office of the family and children's ombuds.

(12) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the administrative office of the courts for research purposes as authorized by the supreme court or by state statute. The administrative office of the courts shall maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy. Data contained in the research copy may be shared with other governmental agencies as authorized by state statute, pursuant to data-sharing and research agreements, and consistent with applicable security and confidentiality requirements. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.270 and 13.50.100(3).

(13) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

(14) The court shall release to the Washington state office of civil legal aid records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.53.045. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of civil legal aid. The Washington state office of civil legal aid shall maintain the confidentiality of all confidential information included in the records, and shall, as soon as possible, destroy any retained notes or records obtained under this section that are not necessary for its functions related to RCW 2.53.045.

(15) For purposes of providing for the educational success of youth in foster care, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with meeting the educational needs of foster youth to another state agency or state agency's contracted provider responsible under state law or contract for assisting foster youth to attain educational success. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

(16) For the purpose of ensuring the safety and welfare of the youth who are in foster care, the department of children, youth, and families may disclose to the department of commerce and its contracted providers responsible under state law or contract for providing services to youth, only those confidential child welfare records that pertain to ensuring the safety and welfare of the youth who are in foster care who are admitted to crisis residential centers or HOPE centers under contract with the office of homeless youth prevention and protection. Records disclosed under this subsection retain their confidentiality pursuant to this

chapter and federal law and may not be further disclosed except as permitted by this chapter and federal law.

(17) For purposes of investigating and preventing child abuse and neglect, and providing for the health care coordination and the well-being of children in foster care, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with investigation and prevention of child abuse and neglect, or may assist with providing for the health and well-being of children in foster care to the department of social and health services, the health care authority, or their contracting agencies. For purposes of investigating and preventing child abuse and neglect, and to provide for the coordination of health care and the well-being of children in foster care, the department of social and health services and the health care authority may disclose only those confidential child welfare records that pertain to or may assist with investigation and prevention of child abuse and neglect, or may assist with providing for the health care coordination and the well-being of children in foster care to the department of children, youth, and families, or its contracting agencies. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

(18) For the purpose of investigating child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, and child fatality, child physical abuse, and criminal neglect cases for the well-being of the child, the department of children, youth, and families may disclose only those confidential child welfare records that pertain to or may assist with such an investigation pursuant to RCW 26.44.180 and section 3 of this act. The records retain their confidentiality pursuant to this chapter and federal law and cannot be further disclosed except as allowed under this chapter and federal law.

**Sec. 2.** RCW 26.44.180 and 2010 c 176 s 2 are each amended to read as follows:

(1) Each agency involved in investigating child sexual abuse, online sexual exploitation and commercial sexual exploitation of minors, as well as investigations of child fatality, child physical abuse, and criminal child neglect cases, shall document its role in handling cases and how it will coordinate with other local agencies or systems and shall adopt a local protocol based on the state guidelines. The department and local law enforcement agencies may include other agencies and systems that are involved with child sexual abuse victims in the multidisciplinary coordination.

(2)(a) Each county shall develop a written protocol for handling investigations of criminal child sexual abuse ((investigations)), online sexual exploitation and commercial sexual exploitation of minors, and child fatality, child physical abuse, and criminal child neglect cases. The protocol shall address the coordination of ((child sexual abuse)) such criminal investigations ((between)) among multidisciplinary child protection team members, identified as representatives from the prosecutor's office, law enforcement, children's protective services, children's advocacy centers(;) where available, local advocacy groups, community sexual assault programs(;) as defined in RCW 70.125.030, licensed physical and mental health practitioners that are involved with child sexual abuse victims, and any other local agency involved in ((the)) such criminal investigations ((of child sexual abuse)), including those

investigations involving multiple victims and multiple offenders. The protocol shall be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection.

(b) County protocol for handling investigations of online sexual exploitation and commercial sexual exploitation of minors must be implemented by July 1, 2021.

(3) Local protocols under this section shall be adopted and in place by July 1, 2000, and shall be submitted to the legislature prior to that date. Beginning on the effective date of this section, local protocols under subsection (1) of this section must be reviewed every two years to determine whether modifications are needed.

NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW to read as follows:

(1) The legislature finds that the purpose of multidisciplinary child protection teams as described in RCW 26.44.180 (1) and (2) is to ensure the protection and well-being of the child and to advance and coordinate the prompt investigation of suspected cases of child abuse or neglect to reduce the trauma of any child victim.

(2)(a) When a case as described in RCW 26.44.180 (1) or (2) is referred to the team, records pertaining to the case must be made available to team members. Any member of the team may use or disclose records made available by the team members under this subsection only as necessary for the performance of the member's duties as a member of the multidisciplinary child protection team.

(b) Team members may share information about criminal child abuse investigations and case planning following such investigations with other participants in the multidisciplinary coordination to the extent necessary to protect a child from abuse or neglect. This section is not intended to permit, direct, or compel team members to share information if sharing would constitute a violation of their professional ethical obligations or disclose privileged communications as described in RCW 5.60.060, or if sharing is otherwise impermissible under chapter 13.50 RCW or other applicable statutes.

(3)(a) Every member of the multidisciplinary child protection team who receives information or records regarding children and families in his or her capacity as a member of the team is subject to the same privacy and confidentiality obligations and confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained by any team member must be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(b) Multidisciplinary child protection team members must execute a confidentiality agreement every year.

(c) This section must not be construed to restrict guarantees of confidentiality provided under state or federal law.

(4) As convened by the county prosecutor, or his or her designee, a multidisciplinary child protection team should meet regularly, at least monthly, unless the needs and resources of each team dictate less frequent meetings. Team meetings are closed to the public and are not subject to chapter 42.30 RCW.

(5) Information and records communicated or provided to the multidisciplinary child protection team members by all providers and agencies,

as well as information and records created in the course of a child abuse or neglect case investigation, are deemed private and confidential and are protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties apply to the inappropriate disclosure of information held by team members. To the extent that the records communicated or provided are confidential under RCW 13.50.100, these records may only be further released as authorized by RCW 13.50.100 or other applicable law.

(6) Any person who presented information before the multidisciplinary child protection team or who is a team member may testify as to matters within the person's knowledge. However, in a civil or criminal proceeding, such person or team member may not be questioned about opinions formed as a result of the case consultation meetings.

(7) Any multidisciplinary child protection team member whose action in facilitating the exchange and sharing of information in serving any child in the course of the member's profession, specialties, interests, or occupation, for the purpose of ensuring the safety of the child and the community and providing early intervention to avert more serious problems, is immune from any civil liability arising out of any good faith act relevant to participation on the team that might otherwise be incurred or imposed under this section. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

Passed by the Senate February 25, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 83

[Senate Bill 5490]

### LIFE SCIENCES DISCOVERY FUND--TRANSFER

AN ACT Relating to transferring duties of the life sciences discovery fund; amending RCW 43.350.040, 43.350.050, and 43.350.070; adding new sections to chapter 43.330 RCW; recodifying RCW 43.350.040, 43.350.050, and 43.350.070; and repealing RCW 43.350.005, 43.350.010, 43.350.020, 43.350.030, 43.350.060, 43.350.901, and 43.350.903.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must contract with a statewide nonprofit organization to either provide services or make grants, or both, to entities pursuant to a contract to foster growth of the state's life science sector and to improve the health and economic well-being of its residents. The statewide nonprofit organization must be a statewide organization established with a primary mission of growing and sustaining the life science ecosystem within the state of Washington by supporting life science entrepreneurs and connecting life science researchers, and biopharmaceutical, medical device, digital health, and health information technology companies to the resources they need to accelerate life science innovation.

(2) The department may also contract with the organization selected under subsection (1) of this section to monitor and collect life science discovery fund grant payback funds.

(3) Grant agreements made pursuant to subsection (1) of this section must specify deliverables to be provided by the recipient under the grant. The nonprofit organization selected pursuant to subsection (1) of this section must evaluate requests for funding by reference to factors such as: (a) The quality of the proposed research or project; (b) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, provide a substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (c) the potential for leveraging additional funding; (d) the potential to provide health care benefits or a benefit to human learning and development; (e) the potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (f) the ability to provide critical life science infrastructure; (g) the potential for attracting new investment or catalytic partnerships in the life sciences; (h) the geographic diversity of the grantees within Washington; and (i) evidence of public and private collaboration.

(4) Before conducting a significant grant competition, the nonprofit organization selected under subsection (1) of this section must adopt policies and procedures to facilitate the orderly process of grant application, review, and reward; and may create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research to assist in grant evaluation.

**Sec. 2.** RCW 43.350.040 and 2005 c 424 s 5 are each amended to read as follows:

~~((The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority))~~ In carrying out its duties under section 1 of this act, the department may: (1) Sue and be sued ~~((in its own name))~~ on behalf of the life sciences discovery fund; (2) make and execute agreements, contracts, and other instruments, with any public or private person or entity ~~((, in accordance with this chapter));~~ (3) employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as ~~((are))~~ necessary ~~((or desirable to implement this chapter));~~ (4) establish such special funds, and controls on deposits to and disbursements from them ~~((, as it finds convenient for the implementation of this chapter;~~ (5) enter into contracts with public and private entities for life sciences research to be conducted in the state; ~~((6));~~ and (5) adopt rules ~~((, consistent with this chapter;~~ (7) delegate any of its powers and duties if consistent with the purposes of this chapter; (8) exercise any other power reasonably required to implement the purposes of this chapter; and (9) hire staff and pay administrative costs)) for the implementation of this act.

**Sec. 3.** RCW 43.350.050 and 2005 c 424 s 6 are each amended to read as follows:

Members of the governing board of trustees of the life sciences discovery fund authority and persons acting on behalf of the authority, while acting within the scope of their employment or agency, are not subject to personal liability



resulting from carrying out the powers and duties conferred on them under ~~((this)) former chapter 43.350 RCW. ((Neither)) The state ((nor)), the life sciences discovery fund authority ((is)), and the department are not liable for any loss, damage, harm, or other consequence resulting directly or indirectly from grants made by the authority or by any life sciences research funded by such grants.~~

**Sec. 4.** RCW 43.350.070 and 2018 c 299 s 924 are each amended to read as follows:

The life sciences discovery fund is created in the custody of the state treasurer. Only the ~~((board or the board's)) department or the department's~~ designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of ~~((this chapter)) section 1 of this act.~~ Administrative expenses of the ~~((authority)) department,~~ including staff support, ~~((may be paid only from the fund)) are limited to actual costs incurred by the department in designating the nonprofit organization and in monitoring and collecting grant payback funds.~~ Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to former RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. ~~((During the 2015-2017 fiscal biennium, the legislature may transfer to other state funds or accounts such amounts as represent the excess balance of the life sciences discovery fund.))~~ During the 2017-2019 fiscal biennium, the legislature may make appropriations from the fund to the department of commerce for providing life sciences research grants. The fund is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 5.** RCW 43.350.040, RCW 43.350.050, and RCW 43.350.070 are each recodified as sections in chapter 43.330 RCW.

NEW SECTION. **Sec. 6.** The following acts or parts of acts are each repealed:

- (1) RCW 43.350.005 (Findings—Purpose—Intent) and 2005 c 424 s 1;
- (2) RCW 43.350.010 (Definitions) and 2005 c 424 s 2;
- (3) RCW 43.350.020 (Life sciences discovery fund authority) and 2005 c 424 s 3;
- (4) RCW 43.350.030 (Authority—Trust powers) and 2016 sp.s. c 9 s 2, 2015 2nd sp.s. c 4 s 1503, 2015 c 71 s 3, & 2005 c 424 s 4;
- (5) RCW 43.350.060 (Dissolving the authority) and 2005 c 424 s 7;
- (6) RCW 43.350.901 (Liberal construction—2005 c 424) and 2005 c 424 s 20; and
- (7) RCW 43.350.903 (Effective dates—2005 c 424) and 2005 c 424 s 24.

Passed by the Senate March 4, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 84

[Substitute Senate Bill 5514]

## FIRST RESPONDERS--NOTIFICATION TO SCHOOLS

AN ACT Relating to first responder agency notifications to schools regarding potential threats; and amending RCW 28A.320.125.

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

**Sec. 1.** RCW 28A.320.125 and 2017 c 165 s 1 are each amended to read as follows:

(1) The legislature considers it to be a matter of public safety for public schools and staff to have current safe school plans and procedures in place, fully consistent with federal law. The legislature further finds and intends, by requiring safe school plans to be in place, that school districts will become eligible for federal assistance. The legislature further finds that schools are in a position to serve the community in the event of an emergency resulting from natural disasters or man-made disasters.

(2) Schools and school districts shall consider the guidance provided by the superintendent of public instruction, including the comprehensive school safety checklist and the model comprehensive safe school plans that include prevention, intervention, all hazard/crisis response, and postcrisis recovery, when developing their own individual comprehensive safe school plans. Each school district shall adopt, no later than September 1, 2008, and implement a safe school plan consistent with the school mapping information system pursuant to RCW 36.28A.060. The plan shall:

- (a) Include required school safety policies and procedures;
- (b) Address emergency mitigation, preparedness, response, and recovery;
- (c) Include provisions for assisting and communicating with students and staff, including those with special needs or disabilities;
- (d) Use the training guidance provided by the Washington emergency management division of the state military department in collaboration with the Washington state office of the superintendent of public instruction school safety center and the school safety center advisory committee;
- (e) Require the building principal to be certified on the incident command system;
- (f) Take into account the manner in which the school facilities may be used as a community asset in the event of a community-wide emergency; and
- (g) Set guidelines for requesting city or county law enforcement agencies, local fire departments, emergency service providers, and county emergency management agencies to meet with school districts and participate in safety-related drills.

- (3) To the extent funds are available, school districts shall annually:
- (a) Review and update safe school plans in collaboration with local emergency response agencies;
  - (b) Conduct an inventory of all hazardous materials;
  - (c) Update information on the school mapping information system to reflect current staffing and updated plans, including:
    - (i) Identifying all staff members who are trained on the national incident management system, trained on the incident command system, or are certified on the incident command system; and

(ii) Identifying school transportation procedures for evacuation, to include bus staging areas, evacuation routes, communication systems, parent-student reunification sites, and secondary transportation agreements consistent with the school mapping information system; and

(d) Provide information to all staff on the use of emergency supplies and notification and alert procedures.

(4) To the extent funds are available, school districts shall annually record and report on the information and activities required in subsection (3) of this section to the Washington association of sheriffs and police chiefs.

(5) School districts are encouraged to work with local emergency management agencies and other emergency responders to conduct one tabletop exercise, one functional exercise, and two full-scale exercises within a four-year period.

(6)(a) Due to geographic location, schools have unique safety challenges. It is the responsibility of school principals and administrators to assess the threats and hazards most likely to impact their school, and to practice three basic functional drills, shelter-in-place, lockdown, and evacuation, as these drills relate to those threats and hazards. Some threats or hazards may require the use of more than one basic functional drill.

(b) Schools shall conduct at least one safety-related drill per month, including summer months when school is in session with students. These drills must teach students three basic functional drill responses:

(i) "Shelter-in-place," used to limit the exposure of students and staff to hazardous materials, such as chemical, biological, or radiological contaminants, released into the environment by isolating the inside environment from the outside;

(ii) "Lockdown," used to isolate students and staff from threats of violence, such as suspicious trespassers or armed intruders, that may occur in a school or in the vicinity of a school; and

(iii) "Evacuation," used to move students and staff away from threats, such as fires, oil train spills, or tsunamis.

(c) The drills described in (b) of this subsection must incorporate the following requirements:

(i) Use of the school mapping information system in at least one of the safety-related drills; and

(ii) A pedestrian evacuation drill for schools in mapped tsunami hazard zones.

(d) The drills described in (b) of this subsection may incorporate an earthquake drill using the state-approved earthquake safety technique "drop, cover, and hold."

(e) Schools shall document the date, time, and type (shelter-in-place, lockdown, or evacuate) of each drill required under this subsection (6), and maintain the documentation in the school office.

(f) This subsection (6) is intended to satisfy all federal requirements for comprehensive school emergency drills and evacuations.

(7) Educational service districts are encouraged to apply for federal emergency response and crisis management grants with the assistance of the superintendent of public instruction and the Washington emergency management division of the state military department.

(8) The superintendent of public instruction may adopt rules to implement provisions of this section. These rules may include, but are not limited to, provisions for evacuations, lockdowns, or other components of a comprehensive safe school plan.

(9)(a) Whenever a first responder agency notifies a school of a situation that may necessitate an evacuation or lockdown, the agency must determine if other known schools in the vicinity are similarly threatened. The first responder agency must notify every other known school in the vicinity for which an evacuation or lockdown appears reasonably necessary to the agency's incident commander unless the agency is unable to notify schools due to duties directly tied to responding to the incident occurring. For purposes of this subsection, "school" includes a private school under chapter 28A.195 RCW.

(b) A first responder agency and its officers, agents, and employees are not liable for any act, or failure to act, under this subsection unless a first responder agency and its officers, agents, and employees acted with willful disregard.

Passed by the Senate March 5, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 85

[Substitute Senate Bill 5612]

### HOLOCAUST EDUCATION

AN ACT Relating to Holocaust education; amending RCW 28A.300.115; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

**Sec. 1.** RCW 28A.300.115 and 1992 c 24 s 1 are each amended to read as follows:

(1) Every public middle school, junior high school, and high school is strongly encouraged to include in its curriculum instruction on the events of the period in modern world history known as the Holocaust, ((during which six million Jews and millions of non-Jews were exterminated)) the systemic, German state-sponsored persecution and murder of Jews and other innocent victims by the Nazi regime and its collaborators between the years 1933 and 1945. The instruction may also include other examples ((from both ancient and modern history where subcultures or large human populations have been eradicated by the acts of humankind)) of genocide and crimes against humanity. The studying of this material is intended to: Examine the ramifications of prejudice, racism, and intolerance; prepare students to be responsible citizens in a pluralistic democracy; and be a reaffirmation of the commitment of free peoples never again to permit such occurrences.

(2) The office of the superintendent of public instruction ((may prepare and make available to all school districts instructional materials for use as guidelines for instruction under this section)), in collaboration with an expert Washington nonprofit organization that teaches the lessons of the Holocaust, must:

(a) Develop best practices and guidelines for high quality instruction under this section; and

(b) Encourage and support middle school, junior high school, and high school teachers in implementing these best practices and guidelines.

(3) Beginning September 1, 2020, middle schools, junior high schools, and high schools that offer instruction as described in subsection (1) of this section must follow the best practices and guidelines developed under subsection (2) of this section.

(4) The office of the superintendent of public instruction must electronically publish the best practices and guidelines developed under this section on an annual basis.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, and in order to broaden the reach of the instruction to public school students, the office of the superintendent of public instruction must work with an expert Washington nonprofit organization that teaches the lessons of the Holocaust, to support and train Washington middle school, junior high school, and high school teachers who teach in subjects relevant to the topic, in instructing the lessons of the Holocaust and other acts of genocide using the best practices and guidelines for the high quality instruction developed under RCW 28A.300.115.

**NEW SECTION. Sec. 3.** (1) By November 14, 2022, the office of the superintendent of public instruction must collect feedback from expert Washington nonprofit organizations that teach the lessons of the Holocaust and support and train Washington teachers in instructing the lessons of the Holocaust and other acts of genocide about:

(a) How the best practices and guidelines for high quality instruction on the events of the period in modern world history known as the Holocaust developed under RCW 28A.300.115 are being implemented statewide;

(b) Whether, and how, the best practices and guidelines should be modified;

(c) The number of teachers trained and supported on using the best practices and guidelines in the past two years; and

(d) Whether instruction should be required in public schools, and if so, in which grades.

(2) By December 12, 2022, and in compliance with RCW 43.01.036, the office of the superintendent of public instruction must work with expert Washington nonprofit organizations described under subsection (1) of this section to summarize the feedback collected under subsection (1) of this section and report it to the appropriate committees of the legislature with a recommendation about whether instruction should be required in public schools, and if so, in which grades.

Passed by the Senate March 12, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

CHAPTER 86

[Substitute Senate Bill 5621]

SMALL CLAIMS COURT--JURISDICTIONAL AMOUNT

AN ACT Relating to increasing the jurisdictional amount for small claims courts; and amending RCW 12.40.010.

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

Sec. 1. RCW 12.40.010 and 2008 c 227 s 2 are each amended to read as follows:

(1) In every district court there shall be created and organized by the court a department to be known as the "small claims department of the district court." The small claims department shall have jurisdiction, but not exclusive, in cases for the recovery of money only if the amount claimed does not exceed:

(a) Ten thousand dollars in cases brought by a natural person; or

(b) Five thousand dollars in all other cases.

(2) For the purposes of this section, "natural person" means a human being.

Passed by the Senate March 4, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

CHAPTER 87

[Senate Bill 5649]

SEXUAL ASSAULT--STATUTE OF LIMITATIONS

AN ACT Relating to crimes of sexual assault; amending RCW 9A.44.060; reenacting and amending RCW 9A.04.080; and creating a new section.

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

NEW SECTION. Sec. 1. Social service agencies providing support to victims of sexual assault have long known that sexual assault crimes are among the most underreported of all types of crime. According to the department of justice, only two hundred thirty out of every one thousand sexual assaults are reported to police. In the wake of the recent #MeToo movement, this fact has become clear to the broader public.

The statute of limitations restricts a prosecutor's ability to hold perpetrators accountable when reports of crime are delayed. There are many different reasons why victims of sexual assault delay or even choose to never report the crime that has been committed against them. Advances in the field of neurobiology have demonstrated how sexual assault trauma and trauma responses may contribute to delayed victim reporting. Sometimes the victim is in a relationship with the perpetrator - an employer, parent, teacher, or some other person with supervisory power over the victim - causing the victim to believe that further harm will come to them if they report the crime. Further, technological and scientific advances in investigation, collection, documentation, and preservation of evidence have advanced law enforcement and prosecutorial abilities to investigate and prosecute these older cases. Realizing this, policymakers across the country have reevaluated and amended statutes of limitation to extend the allowable time to prosecute sexual assault crimes.

It is generally true that the longer a victim waits to report a crime, the more difficult it will be for the case to be successfully prosecuted. However, the statute of limitations should not prohibit prosecution for these heinous offenses when there is adequate evidence. Extending or eliminating the statute of limitations in these cases is imperative to provide access to justice for victims, hold perpetrators accountable, and enhance community protection.

**Sec. 2.** RCW 9A.04.080 and 2017 c 266 s 9, 2017 c 231 s 2, and 2017 c 125 s 1 are each reenacted and amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Homicide by abuse;
- (iii) Arson if a death results;
- (iv) Vehicular homicide;
- (v) Vehicular assault if a death results;
- (vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));
- (vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;

(viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;

- (ix) Rape of a child in the first degree (RCW 9A.44.073);
- (x) Rape of a child in the second degree (RCW 9A.44.076);
- (xi) Rape of a child in the third degree (RCW 9A.44.079);
- (xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);
- (xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);
- (xiv) Child molestation in the first degree (RCW 9A.44.083);
- (xv) Child molestation in the second degree (RCW 9A.44.086);
- (xvi) Child molestation in the third degree (RCW 9A.44.089); and
- (xvii) Sexual exploitation of a minor (RCW 9.68A.040).

(b) Except as provided in ~~((e))~~ (a) of this subsection, the following offenses may not be prosecuted more than twenty years after its commission:

- (i) Rape in the first degree (RCW 9A.44.040);
- (ii) Rape in the second degree (RCW 9A.44.050); or
- (iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses ~~((shall))~~ may not be prosecuted more than ten years after ~~((their))~~ its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

~~(iii) ((A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission.~~

~~(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted more than three years after its commission;~~

- ~~(iv) Indecent liberties under RCW 9A.44.100(1)(b); or~~
- ~~(v)) Rape in the third degree (RCW 9A.44.060);~~

(iv) Attempted murder; or

~~((vi))~~ (v) Trafficking under RCW 9A.40.100.

~~((e))~~ Violations of the following statutes, when committed against a victim under the age of eighteen, may be prosecuted up to the victim's thirtieth birthday: RCW 9A.44.040 (rape in the first degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), 9A.44.089 (child molestation in the third degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or 9.68A.040 (sexual exploitation of a minor).)

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);

~~((e))~~

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

(iv) RCW 9A.64.020 (incest).

(e) The following offenses ~~((shall))~~ may not be prosecuted more than six years after ~~((their))~~ its commission or ~~((their))~~ discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400; or

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010.

(f) The following offenses ~~((shall))~~ may not be prosecuted more than five years after ~~((their))~~ its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(g) Bigamy ~~((shall))~~ may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(h) A violation of RCW 9A.56.030 ~~((must))~~ may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(i) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(j) No gross misdemeanor may be prosecuted more than two years after its commission.



(k) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or one year from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

**Sec. 3.** RCW 9A.44.060 and 2013 c 94 s 1 are each amended to read as follows:

(1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person:

(a) Where the victim did not consent as defined in RCW 9A.44.010(7), to sexual intercourse with the perpetrator (~~and such lack of consent was clearly expressed by the victim's words or conduct,~~); or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a class C felony.

Passed by the Senate February 20, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 88

[Senate Bill 5786]

### RELEASE OF RECORDS FOR RESEARCH--HIGHER EDUCATION INSTITUTIONS

AN ACT Relating to administrative efficiencies in research in public institutions of higher education; and amending RCW 42.48.010.

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

**Sec. 1.** RCW 42.48.010 and 2018 c 58 s 20 are each amended to read as follows:

For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; (c) ~~((an institution of higher education as defined in RCW 28B.10.016; (d)))~~ the department of health; or ~~((e))~~ (d) the department of children, youth, and families.

Passed by the Senate March 6, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 89

[Senate Bill 5831]

### EMPLOYER INDEBTEDNESS TO DECEDENT--SURVIVOR PAYMENT

AN ACT Relating to an employer's payment of indebtedness; and amending RCW 49.48.120.

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

**Sec. 1.** RCW 49.48.120 and 2018 c 57 s 1 are each amended to read as follows:

(1) If at the time of the death of any person, his or her employer is indebted to him or her for work, labor, and services performed, and no executor or administrator of his or her estate has been appointed, the employer shall upon the request of the surviving spouse pay the indebtedness in an amount as may be due not exceeding the sum of ~~((two thousand five hundred))~~ ten thousand dollars, to the surviving spouse, or if the decedent leaves no surviving spouse, then to the decedent's child or children, or if no children, then to the decedent's father or mother.

(2) In the event the decedent's employer is the state of Washington or a municipal corporation, as defined in RCW 39.50.010, then there shall be no limit to the amount of the indebtedness that can be paid under subsection (1) of this section.

(3) If the decedent and the surviving spouse have entered into a community property agreement that meets the requirements of RCW 26.16.120, and the right to the indebtedness became the sole property of the surviving spouse upon the death of the decedent, the employer shall pay to the surviving spouse the

total of the indebtedness, or that portion which is governed by the community property agreement, upon presentation of the agreement accompanied by an affidavit or declaration of the surviving spouse stating that the agreement was executed in good faith between the parties and had not been rescinded by the parties before the decedent's death.

(4) In all cases, the employer shall require proof of the claimant's relationship to the decedent by affidavit or declaration, and shall require the claimant to acknowledge receipt of the payment in writing.

(5) Any payments made by an employer pursuant to the provisions of RCW 49.48.115 and this section shall operate as a full and complete discharge of the employer's indebtedness to the extent of the payment, and no employer shall thereafter be liable to the decedent's estate, or the decedent's executor or administrator thereafter appointed.

(6) The employer may also pay the indebtedness upon presentation of an affidavit as provided in RCW 11.62.010.

Passed by the Senate March 5, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 90

[Substitute Senate Bill 5885]

### CHILD VICTIM OF SEX OFFENSE--ADMISSIBILITY OF STATEMENTS

AN ACT Relating to the admissibility of testimony of children in criminal and dependency proceedings; and amending RCW 9A.44.120.

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

**Sec. 1.** RCW 9A.44.120 and 1995 c 76 s 1 are each amended to read as follows:

(1) A statement not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:

(a)(i) It is made by a child when under the age of ten describing any act of sexual contact performed with or on the child by another, describing any attempted act of sexual contact with or on the child by another, or describing any act of physical abuse of the child by another that results in substantial bodily harm as defined by RCW 9A.04.110(~~(, not otherwise admissible by statute or court rule, is admissible in evidence in dependency proceedings under Title 13 RCW and criminal proceedings, including juvenile offense adjudications, in the courts of the state of Washington if:))~~); or

(ii) It is made by a child when under the age of sixteen describing any of the following acts or attempted acts performed with or on the child: Trafficking under RCW 9A.40.100; commercial sexual abuse of a minor under RCW 9.68A.100; promoting commercial sexual abuse of a minor under RCW 9.68A.101; or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102;

~~((+))~~ (b) The court finds, in a hearing conducted outside the presence of the jury, that the time, content, and circumstances of the statement provide sufficient indicia of reliability; and

~~((2))~~ (c) The child either:

~~((+))~~ (i) Testifies at the proceedings; or

~~((b))~~ (ii) Is unavailable as a witness(~~(-PROVIDED)~~), except that when the child is unavailable as a witness, such statement may be admitted only if there is corroborative evidence of the act.

(2) A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party his or her intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to prepare to meet the statement.

Passed by the Senate March 11, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

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## CHAPTER 91

[Engrossed Senate Bill 5958]

### LOCAL GOVERNMENT AGENCY BID NOTICES--USE OF ANOTHER AGENCY CONTRACT

AN ACT Relating to public works contracts and interlocal agreements; and amending RCW 39.34.030.

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

**Sec. 1.** RCW 39.34.030 and 2015 c 232 s 1 are each amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter, except that any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a

nonprofit corporation organized pursuant to chapter 24.03 or 24.06 RCW whose membership is limited solely to the participating public agencies or a partnership organized pursuant to chapter 25.04 or 25.05 RCW whose partners are limited solely to participating public agencies, or a limited liability company organized under chapter 25.15 RCW whose membership is limited solely to participating public agencies, and the funds of any such corporation, partnership, or limited liability company shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall contain, in addition to provisions specified in subsection (3)(a), (c), (d), (e), and (f) of this section, the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies that are party to the agreement shall be represented; and

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of . . . . . joint board."

(5) No agreement made pursuant to this chapter relieves any public agency of any obligation or responsibility imposed upon it by law except that:

(a) To the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to this chapter, the performance may be offered in satisfaction of the obligation or responsibility; and

(b) With respect to one or more public agencies purchasing or otherwise contracting through a bid, proposal, or contract awarded by another public agency or by a group of public agencies, any ~~((statutory))~~ obligation ~~((to provide notice for))~~ with respect to competitive bids or proposals that applies to the public agencies involved is satisfied if the public agency or group of public agencies that awarded the bid, proposal, or contract complied with its own statutory requirements and either (i) posted the bid or solicitation notice on a web site established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations, or (ii) provided an access link on the state's web portal to the notice.

(6)(a) Any two or more public agencies may enter into a contract providing for the joint utilization of architectural or engineering services if:

(i) The agency contracting with the architectural or engineering firm complies with the requirements for contracting for such services under chapter 39.80 RCW; and

(ii) The services to be provided to the other agency or agencies are related to, and within the general scope of, the services the architectural or engineering firm was selected to perform.

(b) Any agreement providing for the joint utilization of architectural or engineering services under this subsection must be executed for a scope of work specifically detailed in the agreement and must be entered into prior to commencement of procurement of such services under chapter 39.80 RCW.

(7) Financing of joint projects by agreement shall be as provided by law.

Passed by the Senate March 8, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 92

[Engrossed Substitute Senate Bill 5959]

### LIVESTOCK IDENTIFICATION--VARIOUS PROVISIONS

AN ACT Relating to livestock identification; amending RCW 16.57.015, 16.57.020, 16.57.025, 16.57.160, 16.57.220, 16.57.450, 16.58.050, 16.58.130, 16.65.080, 16.65.037, 16.65.090, and 16.65.170; adding a new section to chapter 16.57 RCW; and providing expiration dates.

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

**Sec. 1.** RCW 16.57.015 and 2011 1st sp.s. c 21 s 51 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory committee. The committee shall be composed of ~~((six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors))~~ twelve voting members appointed by the director as follows: Two beef producers, two cattle feeders, two dairy producers, two livestock market owners, two meat processors, and two horse producers. Organizations representing the groups represented on the committee may submit nominations for these appointments to the director for the director's consideration. No more than two members at the time of their appointment or during their term may reside in the same county. Members may be reappointed and vacancies must be filled in the same manner as original appointments are made. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The committee shall elect a member to serve as chair of the committee. The committee must meet at least twice a year. The committee shall meet at the call of the director, chair, or a majority of the committee. A quorum of the committee consists of a majority of members. If a member has not been designated for a position set forth in this section, that position may not be counted for purposes of determining a quorum. A member may appoint an alternate who meets the same qualifications as the member to serve during the member's absence. The director may remove a member from the committee if that member has two or more unexcused absences during a single calendar year.

(2) The purpose of the committee is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding inspection fees and related licensing fees. The director shall consult the committee before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter and the rule has not received the approval of the advisory committee, the director shall file with the committee a written statement setting forth the director's reasons for proposing the rule without the committee's approval.

(3) The members of the advisory committee serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the committee to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 2.** RCW 16.57.020 and 2003 c 326 s 4 are each amended to read as follows:

The director shall be the recorder of livestock brands and such brands shall not be recorded elsewhere in this state. Any person desiring to record a livestock brand shall apply on a form prescribed by the director. The application shall be accompanied by a facsimile of the brand applied for and a one hundred ~~((twenty))~~ thirty-two dollar recording fee. The director shall, upon his or her satisfaction that the application and brand facsimile meet the requirements of this chapter and its rules, record the brand. The director must establish a staggered brand record renewal schedule and may adopt an annual or biennial renewal schedule if necessary. The application to transfer a brand shall be accompanied by a notarized form that includes a facsimile of the brand, a description, information about the current owners, and a twenty-seven dollar and fifty cent transfer fee. If the application to transfer a brand is for a legacy brand, the application must be accompanied by a one hundred dollar transfer fee. For purposes of this section, "legacy brand" means a brand that has been in continuous use for at least twenty-five years.

**Sec. 3.** RCW 16.57.025 and 2003 c 326 s 6 are each amended to read as follows:

(1) The director may enter into agreements with Washington state licensed and accredited veterinarians, who have been certified by the director, to perform livestock inspection.

(2) The department must maintain a list of field livestock inspectors who are certified to perform livestock inspection. The list must be divided into at least six geographic regions of the state. The list must be updated quarterly and must be made available to the public through electronic media and by mail when requested.

(3) All individuals applying for certification as a field livestock inspector under this section must complete training provided by the department at the discretion of the director. Training must include, but is not limited to, the:

(a) Reading of printed brands;

(b) Reading of brands or other marks on animals, including the location of brands on animals;

(c) Reading of a microchip or other electronic official individual identification;

(d) Completion of official documents; and

(e) Review of satisfactory ownership documents.

(4) In order to qualify, an individual must submit an application to the director that includes:

(a) The full name, address, telephone number, and email address of the individual applying for certification;

(b) The applicant's Washington state veterinary license number, if the applicant is a veterinarian;

(c) The geographic area in which the applicant will issue inspection certificates for livestock;

(d) A statement describing the applicant's experience with large animals, especially cattle and horses; and

(e) A brief statement indicating that the applicant is requesting certification to issue inspection certificates for cattle, horses, or both.

(5) Fees for livestock inspection performed by a certified veterinarian or field livestock inspector shall be collected by the veterinarian or field livestock inspector and remitted to the director. Veterinarians and field livestock inspectors providing livestock inspection may charge a fee for livestock inspection that is in addition to and separate from fees collected under RCW 16.57.220. The director may adopt (~~rules necessary to implement livestock inspection performed by veterinarians and may adopt~~) fees to cover the cost associated with certification of veterinarians and field livestock inspectors.

(6) A veterinarian or field livestock inspector certified to perform livestock inspection under this section shall not be considered an employee of the department.

(7)(a) The director may suspend or revoke a veterinarian's or field livestock inspector's certification to issue inspection certificates if the veterinarian or field livestock inspector knowingly:

(i) Makes or acquiesces in false or inaccurate statements on livestock inspection certificates regarding:

(A) The date or location of the inspection;

(B) The marks or brands on the livestock inspected;

(C) The owner's name; or

(D) Any other statement about the livestock inspected.

(ii) Fails to properly verify the ownership status of the animal before issuing an inspection certificate.

(iii) Issues an inspection certificate without actually conducting an inspection of the livestock.

(iv) Fails to submit inspection fees and certificates issued to the director within thirty days from the date of issue.

(b) Actions under this section must be taken in accordance with chapter 34.05 RCW.

**Sec. 4.** RCW 16.57.160 and 2015 c 197 s 2 are each amended to read as follows:

(1) The director may adopt rules:



(a) Designating any point for mandatory inspection of cattle or horses or the furnishing of proof that cattle or horses passing or being transported through the point have been inspected or identified and are lawfully being transported;

(b) Providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification;

(c) Designating the documents that constitute other satisfactory proof of ownership for cattle and horses. A bill of sale may not be designated as documenting satisfactory proof of ownership for cattle; and

(d) Designating when inspection certificates, certificates of permit, or other transportation documents required by law or rule must designate a physical address of a destination. Cattle and horses must be delivered or transported directly to the physical address of that destination.

(2) The director may establish a process to electronically report transactions involving (~~unbranded dairy~~) cattle under RCW 16.57.450 as an alternative to the mandatory cattle inspections required by department rule adopted pursuant to this section.

(3) A self-inspection certificate may be accepted as satisfactory proof of ownership for cattle if the director determines that the self-inspection certificate, together with other available documentation, sufficiently establishes ownership. Self-inspection certificates completed after June 10, 2010, are not satisfactory proof of ownership for cattle.

(4)(a) Upon request by a milk producer licensed under chapter 15.36 RCW, the department must issue an official individual identification tag to be placed by the producer before the first point of sale on bull calves and free-martins (infertile female calves) under thirty days of age. The fee for each tag is the cost to the department for manufacture, purchase, and distribution of the tag plus the applicable beef commission assessment. As used in this subsection (4), "green tag" means the official individual identification issued by the department.

(b) Transactions involving unbranded dairy breed bull calves or free-martins (infertile female calves) not being moved or transported out of Washington are exempt from inspection requirements under this chapter only if:

(i) The animal is under thirty days old and has not been previously bought or sold;

(ii) The seller holds a valid milk producer's license under chapter 15.36 RCW;

(iii) The sale does not take place at or through a public livestock market or special sale authorized by chapter 16.65 RCW;

(iv) Each animal is officially identified as provided in (a) of this subsection; and

(v) A certificate of permit and a bill of sale listing each animal's green tag accompanies the animal to the buyer's location. These documents do not constitute proof of ownership under this chapter.

(c) All fees received under (a) of this subsection, except for the beef commission assessment, must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230.

**Sec. 5.** RCW 16.57.220 and 2010 c 66 s 7 are each amended to read as follows:

(1) Except as provided for in RCW 16.65.090 and otherwise in this section, the fee for livestock inspection is (~~one dollar and sixty cents~~) four dollars per

head for cattle and three dollars and ~~((fifty))~~ eighty-five cents for horses ~~((or the time and mileage fee, whichever is greater)), with a call out fee of twenty dollars.~~

(2) When cattle are identified with the owner's brand, electronic official individual identification, or other form of identification specified by the director by rule, the fee for livestock inspection is one dollar and ~~((ten))~~ twenty-one cents per head ~~((or the time and mileage fee, whichever is greater)), with a call out fee of twenty dollars.~~

(3) No inspection fee is charged for a calf that is inspected before moving out-of-state under an official temporary grazing permit if the calf is part of a cow-calf unit and the calf is identified with the owner's Washington-recorded brand or other form of identification specified by the director by rule.

(4) The fee for inspection of cattle at a processing plant with a daily capacity of no more than five hundred head of cattle where the United States department of agriculture maintains a meat inspection program is four dollars and forty cents per head, with a call out fee of twenty dollars.

(5) When a single inspection certificate is issued for thirty or more horses belonging to one person, the fee for livestock inspection is two dollars and twenty cents per head ~~((or the time and mileage fee, whichever is greater)), with a call out fee of twenty dollars.~~

(6) The fee for individual identification certificates is twenty-two dollars for an annual certificate and sixty-three dollars for a lifetime certificate ~~((or the time and mileage fee, whichever is greater)), with a call out fee of twenty dollars.~~ However, the fee for an annual certificate listing thirty or more animals belonging to one person is five dollars and fifty cents per head ~~((or the time and mileage fee, whichever is greater)), with a call out fee of twenty dollars.~~ A lifetime certificate shall not be issued until the fee has been paid to the director.

(7) The minimum fee for the issuance of an inspection certificate by the director is five dollars and fifty cents. The minimum fee does not apply to livestock consigned to a public livestock market or special sale or inspected at a cattle processing plant.

~~((8) For purposes of this section, "the time and mileage fee" means seventeen dollars per hour and the current mileage rate set by the office of financial management.))~~

**Sec. 6.** RCW 16.57.450 and 2015 c 197 s 1 are each amended to read as follows:

(1)(a) The director may establish an electronic cattle transaction reporting system as a mechanism for reporting transactions involving ~~((unbranded dairy))~~ cattle to the department. The system may be used as an alternative to mandatory inspections under RCW 16.57.160. ~~((However, it may only be used as an alternative for unbranded dairy cattle that are individually identified through an identification method authorized by the department. All other livestock transactions are subject to the provisions of RCW 16.57.160))~~ The system may be used to report the inspection of animals that are being moved out-of-state.

(b) ~~((Pursuant to criteria established by the director by rule.))~~ A cattle transaction described in (a) of this subsection, that would otherwise trigger a mandatory inspection under rules adopted pursuant to RCW 16.57.160, is eligible to report electronically under this section.

(c) Transactions that may be reported electronically include any sale, trade, gift, barter, or any other transaction that constitutes a change of ownership of ((unbranded dairy)) cattle.

(2) A person may not electronically report change of ownership transactions involving ((unbranded dairy)) cattle under this section without first obtaining an electronic cattle transaction reporting license from the director. Applicants for an electronic cattle transaction reporting license must submit an application to the department on a form provided by the department and must include an application fee. The amount of the application fee must be established by the director by rule consistent with subsection (8) of this section.

(3) All holders of an electronic cattle transaction reporting license must transmit to the department a record of each transaction containing the unique identification of each individual animal included in the transaction as assigned through a department-authorized identification method. The transmission required under this subsection must be completed no more than twenty-four hours after a qualifying transaction involving ((unbranded dairy)) cattle.

(4) All holders of an electronic cattle transaction reporting license must keep accurate records of all transactions involving ((unbranded dairy)) cattle and make those records available for inspection by the department upon reasonable request during normal business hours. All records of the licensed property must be retained for at least three years.

(5)(a) The director may enter the property of the holder of an electronic cattle transaction reporting license at any reasonable time to conduct examinations and inspections of cattle and any associated records for movement verification purposes. For purposes of this section, "any reasonable time" means during regular business hours or during any working shift.

(b) It is unlawful for any person to interfere with an examination and inspection of cattle and records performed under this subsection.

(c) If the director is denied access to a property or cattle for the purposes of this subsection, or a person fails to comply with an order of the director, the director may apply to a court of competent jurisdiction for a search warrant. To show that access is denied, the director must file with the court an affidavit or declaration containing a description of all attempts to notify and locate the owner or owner's agent and secure consent.

(6)(a) The director may deny, suspend, or revoke an electronic cattle transaction reporting license issued under this section if the director finds that an electronic cattle transaction reporting license holder:

- (i) Fails to satisfy the reporting requirements as provided in this section;
- (ii) Knowingly makes false or inaccurate statements;
- (iii) Has previously had an electronic cattle transaction reporting license revoked;

(iv) Denies entry to property, cattle, or records as provided in subsection (5) of this section; or

(v) Violates any other provision of this chapter or any rules adopted under this chapter.

(b) Any action taken under this subsection must be consistent with the provisions of chapter 34.05 RCW, the administrative procedure act.

(c) If an electronic cattle transaction reporting license is denied, suspended, or revoked, then the mandatory cattle inspection requirements under RCW 16.57.160 apply to any future transactions.

(7) The department must submit an annual report to the legislature, consistent with RCW 43.01.036, that documents all examinations and inspections of cattle and records of electronic cattle transaction reporting license holders performed by the department either since the department's last report or since the adoption of the electronic cattle transaction reporting system. The annual report must also include details regarding any actions the department took following the examinations and inspections. All reports required under this section must be submitted by July 31st of each year.

(8)(a) The director may adopt rules:

(i) Designating the conditions of licensure under this section and the use of the electronic cattle transaction reporting system authorized by this section;

(ii) Establishing an initial application fee and a license renewal fee applicable to the electronic cattle transaction reporting license; and

(iii) Establishing any fees that must be paid by the holder of an electronic cattle transaction reporting license for reporting cattle transactions through the electronic cattle transaction reporting system.

(b) All fees established under this section must, as closely as practicable, cover the cost of the development, maintenance, fee collection, and audit and administrative oversight of the electronic cattle transaction reporting system.

**Sec. 7.** RCW 16.58.050 and 2003 c 326 s 49 are each amended to read as follows:

(1) The application for an annual license to engage in the business of operating one or more certified feed lots shall be accompanied by a license fee of (~~eight hundred fifty~~) nine hundred thirty-five dollars.

(2) Upon approval of the application by the director and compliance with the provisions of this chapter and rules adopted under this chapter, the applicant shall be issued a license or license renewal. The director shall conduct an inspection of all cattle and their corresponding ownership documents prior to issuing an original license. The inspection fee is the higher of the current inspection fee per head of cattle or time and mileage as set forth in RCW 16.57.220.

**Sec. 8.** RCW 16.58.130 and 2006 c 156 s 2 are each amended to read as follows:

Each licensee shall pay to the director a fee of (~~twenty-five~~) twenty-eight cents for each head of cattle handled through the licensee's feed lot. The licensee must pay a call out fee of twenty dollars to the department for each day and for each livestock inspector, certified veterinarian, or field livestock inspector who performs inspections at each certified feed lot. Payment of the fees shall be made by the licensee on a monthly basis. Failure to pay as required shall be grounds for suspension or revocation of a certified feed lot license. The director shall not renew a certified feed lot license if a licensee has failed to make prompt and timely payments.

**Sec. 9.** RCW 16.65.080 and 2003 c 326 s 70 are each amended to read as follows:

(1) The director may deny, suspend, or revoke a license when the director finds that a licensee (a) has misrepresented titles, charges, numbers, brands, weights, proceeds of sale, or ownership of livestock; (b) has attempted payment to a consignor or the department by a check the licensee knows not to be backed by sufficient funds to cover such check; (c) has violated any of the provisions of this chapter or rules adopted under this chapter; (d) has violated any laws of the state that require inspection of livestock for health or ~~((ownership))~~ identification purposes; (e) has violated any condition of the bond, as provided in this chapter.

(2) Upon notice by the director to deny, revoke, or suspend a license, a person may request a hearing under chapter 34.05 RCW.

(3) The director may issue subpoenas to compel the attendance of witnesses, ~~((and/or))~~ or the production of books or documents anywhere in the state. The applicant or licensee shall have opportunity to be heard, and may have such subpoenas issued as he or she desires. Subpoenas shall be served in the same manner as in civil cases in the superior court. Witnesses shall testify under oath which may be administered by the director. Testimony shall be recorded, and may be taken by deposition under such rules as the director may prescribe.

**Sec. 10.** RCW 16.65.037 and 2003 c 326 s 66 are each amended to read as follows:

(1) Any license issued under the provisions of this chapter shall only be valid at the location and for the sales day or days for which the license was issued.

(2) The license fee shall be based on the average gross sales volume per official sales day of a market in the previous twelve months or, for a new market, the projected average gross sales per official sales day of the market during its first year's operation.

(a) The license fee for markets with an average gross sales volume up to and including ten thousand dollars is one hundred ~~((fifty))~~ sixty-five dollars.

(b) The license fee for markets with an average gross sales volume over ten thousand dollars and up to and including fifty thousand dollars is three hundred thirty dollars.

(c) The license fee for markets with an average gross sales volume over fifty thousand dollars is four hundred ~~((fifty))~~ ninety-five dollars.

(3) Any applicant operating more than one public livestock market shall make a separate application for a license to operate each public livestock market, and each application shall be accompanied by the appropriate license fee.

**Sec. 11.** RCW 16.65.090 and 2003 c 326 s 71 are each amended to read as follows:

~~((The director shall provide for livestock inspection.))~~ When livestock inspection is required the licensee shall collect from the consignor and pay to the department an inspection fee, as provided by law, for each animal inspected. However, if in any one sale day the total fees collected for inspection do not exceed one hundred fifty dollars, then the licensee shall pay one hundred fifty dollars for the inspection services. The licensee must pay a call out fee of twenty dollars to the department for each day and for each livestock inspector, certified veterinarian, or field livestock inspector who performs inspections at a public livestock market.

**Sec. 12.** RCW 16.65.170 and 2003 c 326 s 74 are each amended to read as follows:

The licensee shall keep accurate records which shall be available for inspection to all parties directly interested therein, and the records shall contain the following information:

- (1) The date on which each consignment of livestock was received and sold.
- (2) The name and address of the buyer and seller of the livestock.
- (3) The number and species of livestock received and sold.
- (4) The marks (~~and~~), brands, and identification on the livestock.
- (5) All statements of warranty or representations of title material to, or upon which, any sale is consummated.
- (6) The gross selling price of the livestock with a detailed list of all charges deducted therefrom.

These records shall be kept by the licensee for one year subsequent to the receipt of such livestock.

NEW SECTION. **Sec. 13.** A new section is added to chapter 16.57 RCW to read as follows:

(1) The department shall submit a livestock inspection program report pursuant to RCW 43.01.036 by September 1, 2020, and annually thereafter, to the appropriate committees of the legislature having oversight over agriculture and fiscal matters. The report must also be submitted to the livestock identification advisory committee created in RCW 16.57.015. The report must include amounts collected, a report on program expenditures, and any recommendations for making the program more efficient, improving the program, or modifying livestock inspection fees to cover the costs of the program. The report must also address the financial status of the program, including whether there is a need to review fees so that the program continues to be supported by fees.

(2) This section expires July 1, 2023.

NEW SECTION. **Sec. 14.** Sections 1, 5, 8, and 11 of this act expire July 1, 2023.

Passed by the Senate March 7, 2019.

Passed by the House April 11, 2019.

Approved by the Governor April 19, 2019.

Filed in Office of Secretary of State April 22, 2019.

## CHAPTER 93

[Second Substitute House Bill 1166]

### SEXUAL ASSAULT--SEXUAL ASSAULT KITS

AN ACT Relating to supporting sexual assault survivors; amending RCW 43.43.545, 43.101.272, and 70.125.090; amending 2018 c 299 s 921 (uncodified); reenacting and amending RCW 9A.04.080; adding a new section to chapter 43.10 RCW; adding a new section to chapter 43.09 RCW; adding new sections to chapter 70.125 RCW; creating a new section; providing expiration dates; and declaring an emergency.

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

**Sec. 1.** 2018 c 299 s 921 (uncodified) is amended to read as follows:

(1)(a) The ~~((joint legislative task force on))~~ sexual assault forensic examination best practices advisory group is established within the office of the attorney general for the purpose of reviewing best practice models for managing all aspects of sexual assault ~~((examinations))~~ investigations and for reducing the number of untested sexual assault ~~((examination))~~ kits in Washington state ~~((that were collected prior to the effective date of this section))~~.

(i) The caucus leaders from the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The caucus leaders from the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The ~~((president of the senate and the speaker of the house of representatives))~~ attorney general, in consultation with the legislative members of the advisory group, shall ~~((jointly))~~ appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

(II) The Washington association of sheriffs and police chiefs;

(III) The Washington association of prosecuting attorneys;

(IV) The Washington defender association or the Washington association of criminal defense lawyers;

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) ~~((The Washington state forensic investigations council;~~

~~(XI) A public institution of higher education as defined in RCW 28B.10.016;~~

~~(XII) A private higher education institution as defined in RCW 28B.07.020;~~  
and

~~(XIII))~~ The office of the attorney general; and

(XI) A sexual assault nurse examiner; and

(B) Two members representing survivors of sexual assault.

(b) ~~((The task force shall choose two cochairs from among its legislative membership. The legislative membership shall convene the initial meeting of the task force.))~~ The appointed membership of the joint legislative task force on sexual assault forensic examination best practices transfers to the advisory group administered by the office of the attorney general pursuant to this section. However, the prior cochairs of the joint legislative task force on sexual assault forensic examination best practices may recommend that the attorney general replace appointees who were inactive or otherwise absent from previous meetings.

(2) The duties of the ~~((task force))~~ advisory group include, but are not limited to:

(a) Researching and determining the number of untested sexual assault ~~((examination))~~ kits in Washington state;

(b) Researching the locations where the untested sexual assault ~~((examination))~~ kits are stored;

(c) Researching, reviewing, and making recommendations regarding legislative policy options for reducing the number of untested sexual assault ~~((examination))~~ kits;

(d) Researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault ~~((examination))~~ kit is collected to the conclusion of the investigation and prosecution of a case, and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps; ~~((and))~~

(e) Researching, identifying, and making recommendations for securing nonstate funding for testing the sexual assault ~~((examination))~~ kits, and reporting on progress made toward securing such funding;

(f) Prior to the end of the moratorium under section 8 of this act, developing policies and submitting recommendations on the storage, retention, and destruction of unreported sexual assault kits as well as protocols for engaging with survivors associated with unreported sexual assault kits;

(g) Monitoring implementation of state and federal legislative changes;

(h) Collaborating with the legislature, state agencies, medical facilities, and local governments to implement reforms pursuant to federal grant requirements; and

(i) Making recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

~~(3) The office of the attorney general shall administer and provide staff support ((for the task force must be provided by the senate committee services and the house of representatives office of program research))~~ to the advisory group.

(4) Legislative members of the ~~((task force))~~ advisory group must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

~~(5) ((The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force meetings and expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.~~

~~(6) The first meeting of the task force must occur prior to October 1, 2015. The task force shall submit a preliminary report regarding its initial findings and recommendations to the appropriate committees of the legislature and the governor no later than December 1, 2015.~~

~~(7) The task force))~~ The advisory group must meet no less than twice annually.

~~((8))~~ (6) The ~~((task force))~~ advisory group shall report its findings and recommendations to the appropriate committees of the legislature and the governor ~~((by September 30, 2016, and))~~ by December 1st of ~~((the following))~~ each year.

~~((9))~~ (7) This section expires ~~((June 30, 2019))~~ December 31, 2021.

**Sec. 2.** RCW 9A.04.080 and 2017 c 266 s 9, 2017 c 231 s 2, and 2017 c 125 s 1 are each reenacted and amended to read as follows:



(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Homicide by abuse;
- (iii) Arson if a death results;
- (iv) Vehicular homicide;
- (v) Vehicular assault if a death results;
- (vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) Except as provided in (c) of this subsection, the following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission.

(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted more than three years after its commission;

(iv) Indecent liberties under RCW 9A.44.100(1)(b); (~~(e)~~)

(v) Attempted murder; or

(vi) Trafficking under RCW 9A.40.100.

(c) Violations of the following statutes, when committed against a victim under the age of eighteen, may be prosecuted up to the victim's thirtieth birthday: RCW 9A.44.040 (rape in the first degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), 9A.44.089 (child molestation in the third degree), 9A.44.100(1)(b) (indecent liberties), 9A.64.020 (incest), or 9.68A.040 (sexual exploitation of a minor).

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor); or

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor).

(e) The following offenses shall not be prosecuted more than six years after their commission or their discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400; or

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010.

(f) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(g) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(h) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(i) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(j) No gross misdemeanor may be prosecuted more than two years after its commission.

(k) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or ~~((one))~~ two years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

NEW SECTION. Sec. 3. A new section is added to chapter 43.09 RCW to read as follows:

(1) After January 1, 2022, the auditor shall conduct a comprehensive performance audit of the statewide sexual assault tracking system under RCW 43.43.545 and the operations of the Washington state patrol crime laboratory with respect to processing sexual assault kits. In addition to other measures established by the auditor, the performance audit shall assess:

(a) Whether the Washington state patrol is operating the statewide sexual assault kit tracking system in accordance with RCW 43.43.545 and best practices; and

(b) Whether the Washington state patrol crime laboratory has taken actions consistent with best practices, chapter 70.125 RCW, and related state budgetary requirements to address testing backlogs and otherwise improve efficiency and efficacy of sexual assault kit testing.

(2) The auditor shall complete the audit and publish a report with its findings no later than December 31, 2022.

(3) This section expires July 1, 2023.

**Sec. 4.** RCW 43.43.545 and 2016 c 173 s 2 are each amended to read as follows:

(1) The Washington state patrol shall create and operate a statewide sexual assault kit tracking system. The Washington state patrol may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(2) The statewide sexual assault kit tracking system must:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(b) Designate sexual assault kits as unreported or reported;

(c) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington state patrol bureau of forensic laboratory services, and other entities (~~(in the)~~ having custody of sexual assault kits to update and track the status and location of sexual assault kits;

~~((e))~~ (d) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

~~((d))~~ (e) Use electronic technology or technologies allowing continuous access.

(3) The Washington state patrol may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The Washington state patrol may phase initial participation according to region, volume, or other appropriate classifications. All entities (~~(in the)~~ having custody of sexual assault kits shall fully participate in the system no later than June 1, 2018. The Washington state patrol shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor no later than January 1, 2017.

(4) The Washington state patrol shall submit a semiannual report on the statewide sexual assault kit tracking system to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor. The Washington state patrol may publish the current report on its web site. The first report is due July 31, 2018, and subsequent reports are due January 31st and July 31st of each year. The report must include the following:

(a) The total number of sexual assault kits in the system statewide and by jurisdiction;

(b) The total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(c) The number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(d) The total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(e) The average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(f) The average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(g) The total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(h) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(i) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(5) For the purpose of reports under subsection (4) of this section, a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise (~~the~~ having custody of the sexual assault kit.

(6) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

(7) The Washington state patrol shall adopt rules as necessary to implement this section.

(8) For the purposes of this section, an "unreported sexual assault kit" refers to a sexual assault kit collected from a victim who has consented to the collection of the sexual assault kit but who has not reported the alleged crime to law enforcement.

**Sec. 5.** RCW 43.101.272 and 2017 c 290 s 3 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

(2) The training must: Be based on research-based practices and standards; offer participants an opportunity to practice interview skills and receive feedback from instructors; minimize the trauma of all persons who are interviewed during abuse investigations; provide methods of reducing the number of investigative interviews necessary whenever possible; assure, to the

extent possible, that investigative interviews are thorough, objective, and complete; recognize needs of special populations; recognize the nature and consequences of victimization; require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; address record retention and retrieval; ~~((and))~~ address documentation of investigative interviews; and educate investigators on the best practices for notifying victims of the results of forensic analysis of sexual assault kits and other significant events in the investigative process, including for active investigations and cold cases.

(3) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault and the neurobiology of trauma. The commission shall consult with the Washington association of prosecuting attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with sexual assault victims in the criminal justice system.

(4) The commission shall develop the training and begin offering it by July 1, 2018. Officers assigned to regularly investigate sexual assault involving adult victims shall complete the training within one year of being assigned or by July 1, 2020, whichever is later.

**Sec. 6.** RCW 70.125.090 and 2015 c 247 s 1 are each amended to read as follows:

(1) When a law enforcement agency receives a sexual assault ~~((examination))~~ kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

(a) The law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred; and

~~((b))~~ (i) Consent for laboratory examination has been given by the victim; or  
 ((b)) (ii) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) ~~((Subject to available funding,))~~ Beginning May 1, 2022, when the Washington state patrol receives a request for laboratory examination of a sexual assault kit from a law enforcement agency, the Washington state patrol shall conduct the laboratory examination of the sexual assault kit, and when appropriate, enter relevant information into the combined DNA index system, within forty-five days of receipt of the request. The Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault ~~((examination))~~ kits at the request of a local law enforcement agency for:

(a) Active investigations and cases with impending court dates;  
 (b) Active investigations where public safety is an immediate concern;  
 (c) Violent crimes investigations, including active sexual assault investigations;

(d) Postconviction cases; and

(e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual

assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The failure of a law enforcement agency to submit a request for laboratory examination, or the failure of the Washington state patrol to facilitate laboratory examination, within the time periods prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault ((~~examination~~)) kit may not be excluded by a court on those grounds.

(4) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(5) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

(6) This section applies prospectively only and not retroactively. It only applies to sexual assault examinations performed on or after July 24, 2015.

(7)(a) Until June 30, ((2018)) 2023, the Washington state patrol shall compile the following information related to the sexual assault ((~~examination~~)) kits identified in this section and section 7 of this act:

(i) The number of requests for laboratory examination made for sexual assault ((~~examination~~)) kits and the law enforcement agencies that submitted the requests; and

(ii) The progress made towards testing the sexual assault ((~~examination~~)) kits, including the status of requests for laboratory examination made by each law enforcement agency.

(b) The Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault ((~~examination~~)) kits.

(c) Beginning in 2015, the Washington state patrol shall report its findings and recommendations annually to the appropriate committees of the legislature and the governor by December 1st of each year.

NEW SECTION. Sec. 7. A new section is added to chapter 70.125 RCW to read as follows:

(1) Law enforcement agencies shall submit requests for forensic analysis of all sexual assault kits collected prior to July 24, 2015, and in the possession of the agencies to the Washington state patrol crime laboratory by October 1, 2019, except submission for forensic analysis is not required when: (a) Forensic analysis has previously been conducted; (b) there is documentation of an adult victim or emancipated minor victim expressing that he or she does not want his or her sexual assault kit submitted for forensic analysis; or (c) a sexual assault kit is noninvestigatory and held by a law enforcement agency pursuant to an agreement with a hospital or other medical provider. The requirements of this subsection apply regardless of the statute of limitations or the status of any related investigation.

(2) The Washington state patrol crime laboratory may consult with local law enforcement agencies to coordinate the efficient submission of requests for forensic analysis under this section in conjunction with the implementation of the statewide tracking system under RCW 43.43.545, provided that all requests

are submitted and all required information is entered into the statewide sexual assault tracking system by October 1, 2019. The Washington state patrol crime laboratory shall facilitate the forensic analysis of all sexual assault kits submitted under this section by December 1, 2021. The analysis may be conducted by the Washington state patrol laboratory or an accredited laboratory holding a contract or agreement with the Washington state patrol. The Washington state patrol shall process the forensic analysis of sexual assault kits in accordance with the priorities in RCW 70.125.090(2).

(3) The failure of a law enforcement agency to submit a request for laboratory examination within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

(4) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(5) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

NEW SECTION. Sec. 8. A new section is added to chapter 70.125 RCW to read as follows:

(1) Beginning on the effective date of this section, untested sexual assault kits may not be disposed of or otherwise destroyed, and must be adequately preserved for the purpose of forensic analysis and potential use in criminal investigations.

(2) Except as provided in subsection (4) of this section, unreported sexual assault kits collected prior to the effective date of this section must be stored by the entity responsible for the collection or its designee.

(3) Except as provided in subsection (4) of this section, unreported sexual assault kits collected on or after the effective date of this section must be transferred to and stored by the Washington state patrol crime laboratory or its designee.

(4) In lieu of the storage requirements under subsection (2) or (3) of this section, a collecting entity may enter into an agreement with a local law enforcement agency or other third party for the storage of unreported sexual assault kits.

(5) For the purposes of this section:

(a) "Unreported sexual assault kit" means a sexual assault kit collected from a victim who has consented to the collection of the sexual assault kit but who has not reported the alleged crime to law enforcement.

(b) "Untested sexual assault kit" means a sexual assault kit that has not been submitted for forensic analysis to a forensic laboratory with combined DNA index system-eligible DNA methodologies. "Untested sexual assault kits" include unreported sexual assault kits as well as any untested sexual assault kits associated with a criminal report or investigation.

(6) This section expires June 30, 2020.

NEW SECTION. **Sec. 9.** A new section is added to chapter 70.125 RCW to read as follows:

(1) In addition to all other rights provided in law, a sexual assault survivor has the right to:

(a) Receive a medical forensic examination at no cost;

(b) Consult with a sexual assault survivor's advocate during any medical evidentiary examination and during any interview by law enforcement officers, prosecuting attorneys, or defense attorneys, unless an advocate cannot be summoned in a timely manner, and regardless of whether a survivor has waived the right in a previous examination or interview;

(c) Be informed, upon the request of a survivor, of when the forensic analysis of his or her sexual assault kit and other related physical evidence will be or was completed, the results of the forensic analysis, and whether the analysis yielded a DNA profile and match, provided that the disclosure is made at an appropriate time so as to not impede or compromise an ongoing investigation;

(d) Receive notice prior to the destruction or disposal of his or her sexual assault kit;

(e) Receive a copy of the police report related to the investigation without charge; and

(f) Review his or her statement before law enforcement refers a case to the prosecuting attorney.

(2) A sexual assault survivor retains all the rights of this section regardless of whether the survivor agrees to participate in the criminal justice system and regardless of whether the survivor agrees to receive a forensic examination to collect evidence.

(3) If a survivor is denied any right enumerated in subsection (1) of this section, he or she may seek an order directing compliance by the relevant party or parties by filing a petition in the superior court in the county in which the sexual assault occurred and providing notice of such petition to the relevant party or parties. Compliance with the right is the sole remedy available to the survivor. The court shall expedite consideration of a petition filed under this subsection.

(4) Nothing contained in this section may be construed to provide grounds for error in favor of a criminal defendant in a criminal proceeding. Except in the circumstances as provided in subsection (3) of this section, this section does not grant a new cause of action or remedy against the state, its political subdivisions, law enforcement agencies, or prosecuting attorneys. The failure of a person to make a reasonable effort to protect or adhere to the rights enumerated in this section may not result in civil liability against that person. This section does not limit other civil remedies or defenses of the sexual assault survivor or the offender.

(5) For the purposes of this section:

(a) "Law enforcement officer" means a general authority Washington peace officer, as defined in RCW 10.93.020, or any person employed by a private police agency at a public school as described in RCW 28A.150.010 or an institution of higher education, as defined in RCW 28B.10.016.

(b) "Sexual assault survivor" means any person who is a victim, as defined in RCW 7.69.020, of sexual assault. However, if a victim is incapacitated,



deceased, or a minor, sexual assault survivor also includes any lawful representative of the victim, including a parent, guardian, spouse, or other designated representative, unless the person is an alleged perpetrator or suspect.

(c) "Sexual assault survivor's advocate" means any person who is defined in RCW 5.60.060 as a sexual assault advocate, or a crime victim advocate.

**NEW SECTION. Sec. 10.** Section 1 of this act is added to chapter 43.10 RCW.

**NEW SECTION. Sec. 11.** Sections 1, 2, and 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 12.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House March 6, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 94

[Substitute House Bill 1254]

### UNREGISTERED VEHICLES AS MARINE CARGO--OPERATION

AN ACT Relating to clarifying the authority of unregistered vehicles shipped as marine cargo through public ports to operate on public roadways; amending RCW 46.16A.080; and creating a new section.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds forty percent of jobs in Washington state are connected to international trade.

(2) The legislature also finds that:

(a) Washington state ports serve as major intermodal hubs for vehicles both imported to and exported from the United States, supporting both manufacturing and logistics jobs;

(b) Vehicles shipped as marine cargo are not registered until purchased by the end user; and

(c) To efficiently move unregistered vehicles shipped as marine cargo between port-owned marine terminals, storage lots, and vehicle processing facilities, they must operate on public roadways.

**Sec. 2.** RCW 46.16A.080 and 2013 c 299 s 2 are each amended to read as follows:

The following vehicles are not required to be registered under this chapter:

(1) Converter gears used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle;

(2) Electric-assisted bicycles;

(3)(a) Farm vehicles operated within a radius of twenty-five miles of the farm where it is principally used or garaged for the purposes of traveling

between farms or other locations to engage in activities that support farming operations, (b) farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and (c) trailers used exclusively to transport farm implements from one farm to another during daylight hours or at night when the trailer is equipped with lights that comply with applicable law;

(4) Forklifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses they serve;

(5) Golf carts, as defined in RCW 46.04.1945, operating within a designated golf cart zone as described in RCW 46.08.175;

(6) Motor vehicles operated solely within a national recreation area that is not accessible by a state highway, including motorcycles, motor homes, passenger cars, and sport utility vehicles. This exemption applies only after initial registration;

(7) Motorized foot scooters;

(8) Nurse rigs or equipment auxiliary for the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(9) Off-road vehicles operated on a street, road, or highway as authorized under RCW 46.09.360, or nonhighway roads under RCW 46.09.450;

(10) Special highway construction equipment;

(11) Dump trucks and tractor-dump trailer combinations that are:

(a) Designed and used primarily for construction work on highways;

(b) Not designed or used primarily for the transportation of persons or property on a public highway; and

(c) Only incidentally operated or moved over the highways;

(12) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation;

(13) Tow dollies;

(14) Trams used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have average daily traffic of not more than fifteen thousand vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another; ~~(and)~~

(15) Vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks; and

(16) Vehicles shipped as marine cargo, if:

(a) The vehicles are operated:

(i) From wharves to and from storage areas or terminals owned by a public port established according to chapter 53.04 RCW; or

(ii) Between storage areas or terminals owned by a public port established according to chapter 53.04 RCW; and

(b) At least part of the operation takes place on public roadways connecting facilities of a single public port.

Passed by the House March 6, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 95

[Substitute House Bill 1290]

### HAZARDOUS WASTE CLEANUP--INDEPENDENT REMEDIAL ACTIONS--EXPEDITED REVIEW

AN ACT Relating to reviews of voluntary cleanups; amending RCW 70.105D.030, 70.105D.070, and 70.105D.110; reenacting and amending RCW 43.84.092; adding a new section to chapter 70.105D RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** Cleaning up and redeveloping contaminated properties is essential to the health and economic prosperity of our communities. Most cleanups are performed voluntarily by property owners and are driven by the sale or redevelopment of the properties. Many of these property owners request written opinions on the sufficiency of their voluntary cleanups from the department of ecology. Buyers and lenders often require these opinions when property owners sell or redevelop contaminated properties. Providing expedited reviews of voluntary cleanups would encourage and expedite more cleanup and redevelopment projects. It is the intent of the legislature to support the cleanup and redevelopment of contaminated properties in our communities by providing the department of ecology with the additional tools and resources necessary for conducting expedited reviews of voluntary cleanups.

The availability of affordable housing is of vital importance to the health, safety, and welfare of the residents of the state. It is in the public interest to facilitate the cleanup and redevelopment of contaminated and underutilized properties within our communities for affordable housing. It is the intent of the legislature to encourage voluntary cleanups of these properties for affordable housing development by waiving the department of ecology's costs of reviewing voluntary cleanups.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.105D RCW to read as follows:

(1) The department may establish a program to provide informal advice and assistance on the administrative and technical requirements of this chapter to persons who are conducting or otherwise interested in conducting independent remedial actions at facilities where there is a suspected or confirmed release of hazardous substances.

(a) Any advice or assistance is advisory only and is not binding on the department.

(b) As part of this advice and assistance, the department may provide written opinions on whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility.

(c) Nothing in this chapter may be construed to preclude the department from issuing a written opinion on whether further remedial action is necessary at any portion of the real property located within a facility, even if further remedial action is still necessary elsewhere at the same facility. A written opinion on a portion of a facility must also provide an opinion on the status of the facility as a whole.

(2) The department may collect, from persons requesting advice and assistance under the program, all costs incurred by the department in providing advice and assistance.

(a) To collect its costs, the department may use either a cost recovery structure or a fee structure, or both.

(i) A fee structure may include either a single fee or a series of fees for individual services.

(ii) The department may calculate fees based on the complexity of the contaminated site and other site-specific factors determined by the department.

(iii) The department may establish a separate fee and cost recovery structure for providing expedited advice and assistance under subsection (3) of this section.

(b) The department may waive collection of costs if the person requesting technical advice and assistance under the program commits to remediate contaminated real property for development of affordable housing, as determined by the department. Prior to waiving costs, the department must consider the requestor's ability to pay and the potential public benefit of the development. To ensure the real property is used for affordable housing, the department may file a lien against the real property pursuant to RCW 70.105D.055, require the person to record an interest in the real property in accordance with RCW 64.04.130, or use other means deemed by the department to be no less protective of the affordable housing use and the interests of the department.

(c) Except when providing expedited advice and assistance under subsection (3) of this section, the department may also waive collection of costs:

(i) For providing technical assistance in support of public participation;

(ii) For providing written opinions on a cleanup that qualifies for and appropriately uses a model remedy; or

(iii) Based on a person's ability to pay. If costs are waived, the department may file a lien against the real property for which the department has incurred the costs pursuant to RCW 70.105D.055.

(3) The department may offer an expedited process for providing informal advice and assistance under the program. Except as provided under subsection (2)(b) of this section, the department must collect, from persons requesting expedited advice and assistance, all costs incurred by the department in providing the advice and assistance. The department may establish conditions for requesting expedited advice and assistance.

(4) The department may adopt rules to implement the program. To ensure that the adoption of rules will not delay the implementation of independent remedial actions, the department may implement the cost waiver and expedited process specified in subsections (2)(b) and (3) of this section through interpretive guidance pending adoption of rules.

(5) The department must track the number of requests for reviews of planned or completed independent remedial actions under the program and establish performance measures to track how quickly the department is able to respond to those requests. The department's tracking system must include a category for tracking the length of time that elapses between the submission of a request for expedited advice and assistance on an independent remedial action at a facility under subsection (3) of this section and the issuance of a letter on the sufficiency of the cleanup at the facility.

(6) The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance under the program.

(7) The voluntary cleanup account is created in the state treasury. All receipts from the fees collected and costs recovered under the expedited process in subsection (3) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to support the expedited process in subsection (3) of this section. If the department suspends the expedited process, any moneys remaining in the account may be used to carry out the purposes of the program. The account must retain its interest earnings in accordance with RCW 43.84.092.

**Sec. 3.** RCW 70.105D.030 and 2013 2nd sp.s. c 1 s 6 are each amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department shall give reasonable notice before entering property unless an emergency prevents such notice. In conducting, providing for, or requiring remedial action, the department shall give preference to permanent solutions to the maximum extent practicable and shall provide for or require adequate monitoring to ensure the effectiveness of the remedial action;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or willful misconduct;

(d) Carry out all state programs authorized under the federal cleanup law and the federal resource, conservation, and recovery act, 42 U.S.C. Sec. 6901 et seq., as amended;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020 and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under ~~((i) of this subsection)~~ section 2 of this act that may be conditioned upon, environmental covenants where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing an environmental covenant under this subsection, the department shall consult with and seek comment from a city or county department with land use planning authority for real property subject to the environmental covenant;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment and the notification requirements established in RCW 70.105D.110, and impose penalties for violations of that section consistent with RCW 70.105D.050;

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(22)(b)(ii)(C);

~~(i) (Provide informal advice and assistance to persons regarding the administrative and technical requirements of this chapter. This may include site-specific advice to persons who are conducting or otherwise interested in independent remedial actions. Any such advice or assistance shall be advisory only, and shall not be binding on the department. As a part of providing this advice and assistance for independent remedial actions, the department may prepare written opinions regarding whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility. Nothing in this chapter may be construed to preclude the department from issuing a written opinion on whether further remedial action is necessary at any portion of the real property located within a facility, even if further remedial action is still necessary elsewhere at the same facility. Such a written opinion on a portion of a facility must also provide an opinion on the status of the facility as a whole. The department may collect, from persons requesting advice and assistance, the costs incurred by the department in providing such advice and assistance; however, the department shall, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance. The department must track the number of requests for reviews of planned or completed independent remedial actions and establish performance measures to track how quickly the department is able to respond to those requests. By November 1, 2015, the department must submit to the governor and the appropriate legislative fiscal and policy committees a report on~~

~~achieving the performance measures and provide recommendations for improving performance, including staffing needs;~~

~~(j))~~ In fulfilling the objectives of this chapter, the department shall allocate staffing and financial assistance in a manner that considers both the reduction of human and environmental risks and the land reuse potential and planning for the facilities to be cleaned up. This does not preclude the department from allocating resources to a facility based solely on human or environmental risks;

~~((k))~~ (j) Establish model remedies for common categories of facilities, types of hazardous substances, types of media, or geographic areas to streamline and accelerate the selection of remedies for routine types of cleanups at facilities;

(i) When establishing a model remedy, the department shall:

(A) Identify the requirements for characterizing a facility to select a model remedy, the applicability of the model remedy for use at a facility, and monitoring requirements;

(B) Describe how the model remedy meets clean-up standards and the requirements for selecting a remedy established by the department under this chapter; and

(C) Provide public notice and an opportunity to comment on the proposed model remedy and the conditions under which it may be used at a facility;

(ii) When developing model remedies, the department shall solicit and consider proposals from qualified persons. The proposals must, in addition to describing the model remedy, provide the information required under ~~((k))~~ (j)(i)(A) and (B) of this subsection;

(iii) If a facility meets the requirements for use of a model remedy, an analysis of the feasibility of alternative remedies is not required under this chapter. For department-conducted and department-supervised remedial actions, the department must provide public notice and consider public comments on the proposed use of a model remedy at a facility.~~((The department may waive collection of its costs for providing a written opinion under (i) of this subsection on a cleanup that qualifies for and appropriately uses a model remedy))~~; and

~~((h))~~ (k) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department shall immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department shall adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) public notice of the development of investigative plans or remedial plans for releases or threatened releases and (ii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement shall not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or

otherwise receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site;

(e) Publish and periodically update minimum clean-up standards for remedial actions at least as stringent as the clean-up standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

(f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection shall ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(3) To achieve and protect the state's long-term ecological health, the department shall plan to clean up hazardous waste sites and prevent the creation of future hazards due to improper disposal of toxic wastes at a pace that matches the estimated cash resources in the state and local toxics control accounts and the environmental legacy stewardship account created in RCW 70.105D.170. Estimated cash resources must consider the annual cash flow requirements of major projects that receive appropriations expected to cross multiple biennia. To effectively monitor toxic accounts expenditures, the department shall develop a comprehensive ten-year financing report that identifies long-term remedial action project costs, tracks expenses, and projects future needs.

~~(4) ((By November 1, 2016, the department must submit to the governor and the appropriate legislative committees a report on the status of developing model remedies and their use under this chapter. The report must include: The number and types of model remedies identified by the department under subsection (1)(k) of this section; the number and types of model remedy proposals prepared by qualified private sector engineers, consultants, or contractors that were accepted or rejected under subsection (1)(k) of this section and the reasons for rejection; and the success of model remedies in accelerating the cleanup as measured by the number of jobs created by the cleanup, where this information is available to the department, acres of land restored, and the number and types of hazardous waste sites successfully remediated using model remedies.~~

~~(5))~~ Before September 20th of each even-numbered year, the department shall:

(a) Develop a comprehensive ten-year financing report in coordination with all local governments with clean-up responsibilities that identifies the projected biennial hazardous waste site remedial action needs that are eligible for funding from the state and local toxics control accounts and the environmental legacy stewardship account;

(b) Work with local governments to develop working capital reserves to be incorporated in the ten-year financing report;



(c) Identify the projected remedial action needs for orphaned, abandoned, and other clean-up sites that are eligible for funding from the state toxics control account;

(d) Project the remedial action need, cost, revenue, and any recommended working capital reserve estimate to the next biennium's long-term remedial action needs from both the local and state toxics control account and the environmental legacy stewardship account, and submit this information to the appropriate standing fiscal and environmental committees of the senate and house of representatives. This submittal must also include a ranked list of such remedial action projects for both accounts. The submittal must also identify separate budget estimates for large, multiyear clean-up projects that exceed ten million dollars. The department shall prepare its ten-year capital budget plan that is submitted to the office of financial management to reflect the separate budget estimates for these large clean-up projects and include information on the anticipated private and public funding obligations for completion of the relevant projects.

~~((6))~~ (5) By December 1st of each odd-numbered year, the department must provide the legislature and the public a report of the department's activities supported by appropriations from the state and local toxics control accounts and the environmental legacy stewardship account. The report must be prepared and displayed in a manner that allows the legislature and the public to easily determine the statewide and local progress made in cleaning up hazardous waste sites under this chapter. The report must include, at a minimum:

(a) The name, location, hazardous waste ranking, and a short description of each site on the hazardous sites list, and the date the site was placed on the hazardous waste sites list; and

(b) For sites where there are state contracts, grants, loans, or direct investments by the state:

(i) The amount of money from the state and local toxics control accounts and the environmental legacy stewardship account used to conduct remedial actions at the site and the amount of that money recovered from potentially liable persons;

(ii) The actual or estimated start and end dates and the actual or estimated expenditures of funds authorized under this chapter for the following project phases:

(A) Emergency or interim actions, if needed;

(B) Remedial investigation;

(C) Feasibility study and selection of a remedy;

(D) Engineering design and construction of the selected remedy;

(E) Operation and maintenance or monitoring of the constructed remedy;

and

(F) The final completion date.

~~((7))~~ (6) The department shall establish a program to identify potential hazardous waste sites and to encourage persons to provide information about hazardous waste sites.

~~((8))~~ (7) For all facilities where an environmental covenant has been required under subsection (1)(f) of this section, including all facilities where the department has required an environmental covenant under an order, agreed order, or consent decree, or as a condition of a written opinion issued under the

authority of ~~((subsection (1)(i) of this section))~~ section 2 of this act, the department shall periodically review the environmental covenant for effectiveness. ~~((Except as otherwise provided in (c) of this subsection,))~~ The department shall conduct a review at least once every five years after an environmental covenant is recorded.

(a) The review shall consist of, at a minimum:

(i) A review of the title of the real property subject to the environmental covenant to determine whether the environmental covenant was properly recorded and, if applicable, amended or terminated;

(ii) A physical inspection of the real property subject to the environmental covenant to determine compliance with the environmental covenant, including whether any development or redevelopment of the real property has violated the terms of the environmental covenant; and

(iii) A review of the effectiveness of the environmental covenant in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances. This shall include a review of available monitoring data.

(b) If an environmental covenant has been amended or terminated without proper authority, or if the terms of an environmental covenant have been violated, or if the environmental covenant is no longer effective in limiting or prohibiting activities that may interfere with the integrity of the remedial action or that may result in exposure to or migration of hazardous substances, then the department shall take any and all appropriate actions necessary to ensure compliance with the environmental covenant and the policies and requirements of this chapter.

~~((c) For facilities where an environmental covenant required by the department under subsection (1)(f) of this section was required before July 1, 2007, the department shall:~~

~~(i) Enter all required information about the environmental covenant into the registry established under RCW 64.70.120 by June 30, 2008;~~

~~(ii) For those facilities where more than five years has elapsed since the environmental covenant was required and the department has yet to conduct a review, conduct an initial review according to the following schedule:~~

~~(A) By December 30, 2008, fifty facilities;~~

~~(B) By June 30, 2009, fifty additional facilities; and~~

~~(C) By June 30, 2010, the remainder of the facilities;~~

~~(iii) Once this initial review has been completed, conduct subsequent reviews at least once every five years.))~~

**Sec. 4.** RCW 70.105D.070 and 2018 c 299 s 911 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2)(a) Moneys collected under RCW 82.21.030 must be deposited as follows: Fifty-six percent to the state toxics control account under subsection (3) of this section and forty-four percent to the local toxics control account under subsection (4) of this section. When the cumulative amount of deposits made to the state and local toxics control accounts under this section reaches the limit during a fiscal year as established in (b) of this subsection, the remainder of the moneys collected under RCW 82.21.030 during that fiscal year must be

deposited into the environmental legacy stewardship account created in RCW 70.105D.170.

(b) The limit on distributions of moneys collected under RCW 82.21.030 to the state and local toxics control accounts for the fiscal year beginning July 1, 2013, is one hundred forty million dollars.

(c) In addition to the funds required under (a) of this subsection, the following moneys must be deposited into the state toxics control account: (i) The costs of remedial actions recovered under this chapter (~~or chapter 70.105A RCW~~), except as provided under section 2(7) of this act; (ii) penalties collected or recovered under this chapter; and (iii) any other money appropriated or transferred to the account by the legislature.

(3) Moneys in the state toxics control account must be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(a) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(b) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(c) The hazardous waste clean-up program required under this chapter;

(d) State matching funds required under federal cleanup law;

(e) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(f) State government programs for the safe reduction, recycling, or disposal of paint and hazardous wastes from households, small businesses, and agriculture;

(g) Oil and hazardous materials spill prevention, preparedness, training, and response activities;

(h) Water and environmental health protection and monitoring programs;

(i) Programs authorized under chapter 70.146 RCW;

(j) A public participation program;

(k) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with clean-up standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both: (i) A substantially more expeditious or enhanced cleanup than would otherwise occur; and (ii) the prevention or mitigation of unfair economic hardship;

(l) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150;

(m) State agriculture and health programs for the safe use, reduction, recycling, or disposal of pesticides;

(n) Stormwater pollution control projects and activities that protect or preserve existing remedial actions or prevent hazardous clean-up sites;

(o) Funding requirements to maintain receipt of federal funds under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et seq.);

(p) Air quality programs and actions for reducing public exposure to toxic air pollution;

(q) Public funding to assist prospective purchasers to pay for the costs of remedial action in compliance with clean-up standards under RCW 70.105D.030(2)(e) if:

(i) The facility is located within a redevelopment opportunity zone designated under RCW 70.105D.150;

(ii) The amount and terms of the funding are established under a settlement agreement under RCW 70.105D.040(5); and

(iii) The director has found the funding meets any additional criteria established in rule by the department, will achieve a substantially more expeditious or enhanced cleanup than would otherwise occur, and will provide a public benefit in addition to cleanup commensurate with the scope of the public funding;

(r) Petroleum-based plastic or expanded polystyrene foam debris cleanup activities in fresh or marine waters;

(s) Appropriations to the local toxics control account or the environmental legacy stewardship account created in RCW 70.105D.170, if the legislature determines that priorities for spending exceed available funds in those accounts;

(t) During the 2015-2017 and 2017-2019 fiscal biennia, the department of ecology's water quality, shorelands, environmental assessment, administration, and air quality programs;

(u) During the 2013-2015 fiscal biennium, actions at the state conservation commission to improve water quality for shellfish;

(v) During the 2013-2015 and 2015-2017 fiscal biennia, actions at the University of Washington for reducing ocean acidification;

(w) During the 2015-2017 and 2017-2019 fiscal biennia, for the University of Washington Tacoma soil remediation project;

(x) For the 2013-2015 fiscal biennium, moneys in the state toxics control account may be spent on projects in section 3160, chapter 19, Laws of 2013 2nd sp. sess. and for transfer to the local toxics control account;

(y) For the 2013-2015 fiscal biennium, moneys in the state toxics control account may be transferred to the radioactive mixed waste account; and

(z) For the 2015-2017 and 2017-2019 fiscal biennia, forest practices regulation at the department of natural resources.

(4)(a) The department shall use moneys deposited in the local toxics control account for grants or loans to local governments for the following purposes in descending order of priority:

(i) Extended grant agreements entered into under ~~((e))~~ (e)(i) of this subsection;

(ii) Remedial actions, including planning for adaptive reuse of properties as provided for under ~~((e))~~ (e)(iv) of this subsection. The department must prioritize funding of remedial actions at:

(A) Facilities on the department's hazardous sites list with a high hazard ranking for which there is an approved remedial action work plan or an equivalent document under federal cleanup law;

(B) Brownfield properties within a redevelopment opportunity zone if the local government is a prospective purchaser of the property and there is a department-approved remedial action work plan or equivalent document under the federal cleanup law;

(iii) Stormwater pollution source projects that: (A) Work in conjunction with a remedial action; (B) protect completed remedial actions against recontamination; or (C) prevent hazardous clean-up sites;

(iv) Hazardous waste plans and programs under chapter 70.105 RCW;

(v) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) Petroleum-based plastic or expanded polystyrene foam debris cleanup activities in fresh or marine waters; and

(vii) Appropriations to the state toxics control account or the environmental legacy stewardship account created in RCW 70.105D.170, if the legislature determines that priorities for spending exceed available funds in those accounts.

(b) Funds for plans and programs must be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW.

(c) During the 2013-2015 fiscal biennium, the local toxics control account may also be used for local government stormwater planning and implementation activities.

(d) During the 2013-2015 fiscal biennium, the legislature may transfer from the local toxics control account to the state general fund, such amounts as reflect the excess fund balance in the account.

(e) To expedite cleanups throughout the state, the department may use the following strategies when providing grants to local governments under this subsection:

(i) Enter into an extended grant agreement with a local government conducting remedial actions at a facility where those actions extend over multiple biennia and the total eligible cost of those actions exceeds twenty million dollars. The agreement is subject to the following limitations:

(A) The initial duration of such an agreement may not exceed ten years. The department may extend the duration of such an agreement upon finding substantial progress has been made on remedial actions at the facility;

(B) Extended grant agreements may not exceed fifty percent of the total eligible remedial action costs at the facility; and

(C) The department may not allocate future funding to an extended grant agreement unless the local government has demonstrated to the department that funds awarded under the agreement during the previous biennium have been substantially expended or contracts have been entered into to substantially expend the funds;

(ii) Enter into a grant agreement with a local government conducting a remedial action that provides for periodic reimbursement of remedial action costs as they are incurred as established in the agreement;

(iii) Enter into a grant agreement with a local government prior to it acquiring a property or obtaining necessary access to conduct remedial actions, provided the agreement is conditioned upon the local government acquiring the property or obtaining the access in accordance with a schedule specified in the agreement;

(iv) Provide integrated planning grants to local governments to fund studies necessary to facilitate remedial actions at brownfield properties and adaptive reuse of properties following remediation. Eligible activities include, but are not limited to: Environmental site assessments; remedial investigations; health

assessments; feasibility studies; site planning; community involvement; land use and regulatory analyses; building and infrastructure assessments; economic and fiscal analyses; and any environmental analyses under chapter 43.21C RCW;

(v) Provide grants to local governments for remedial actions related to area-wide groundwater contamination. To receive the funding, the local government does not need to be a potentially liable person or be required to seek reimbursement of grant funds from a potentially liable person;

(vi) The director may alter grant matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational opportunities, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of brownfield property under RCW 70.105D.040(5) that would not otherwise occur;

(vii) When pending grant applications under (e)(iv) and (v) of this subsection (4) exceed the amount of funds available, designated redevelopment opportunity zones must receive priority for distribution of available funds.

(f) To expedite multiparty clean-up efforts, the department may purchase remedial action cost-cap insurance. For the 2013-2015 fiscal biennium, moneys in the local toxics control account may be spent on projects in sections 3024, 3035, 3036, and 3059, chapter 19, Laws of 2013 2nd sp. sess.

(5) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(6) No moneys deposited into either the state or local toxics control account may be used for: Natural disasters where there is no hazardous substance contamination; high performance buildings; solid waste incinerator facility feasibility studies, construction, maintenance, or operation; or projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310. However, this subsection does not prevent an appropriation from the state toxics control account to the department of revenue to enforce compliance with the hazardous substance tax imposed in chapter 82.21 RCW.

(7) Except during the 2011-2013 and the 2015-2017 fiscal biennia, one percent of the moneys collected under RCW 82.21.030 shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation that are not expended at the close of any biennium revert to the state toxics control account.

(8) The department shall adopt rules for grant or loan issuance and performance. To accelerate both remedial action and economic recovery, the department may expedite the adoption of rules necessary to implement chapter 1, Laws of 2013 2nd sp. sess. using the expedited procedures in RCW 34.05.353. The department shall initiate the award of financial assistance by August 1, 2013. To ensure the adoption of rules will not delay financial assistance, the department may administer the award of financial assistance through interpretive guidance pending the adoption of rules through July 1, 2014.

(9) Except as provided under subsection (3)(k) and (q) of this section, nothing in chapter 1, Laws of 2013 2nd sp. sess. affects the ability of a potentially liable person to receive public funding.

(10) During the 2015-2017 fiscal biennium the local toxics control account may also be used for the centennial clean water program and for the stormwater financial assistance program administered by the department of ecology.

(11) During the 2017-2019 fiscal biennium:

(a) The state toxics control account, the local toxics control account, and the environmental legacy stewardship account may be used for interchangeable purposes and funds may be transferred between accounts to accomplish those purposes.

(b) The legislature may direct the state treasurer to make transfers of moneys in the state toxics control account to the water pollution control revolving account.

**Sec. 5.** RCW 70.105D.110 and 2002 c 288 s 2 are each amended to read as follows:

(1) Except as provided in subsection (5) of this section, any owner or operator of a facility that is actively transitioning from operating under a federal permit for treatment, storage, or disposal of hazardous waste issued under 42 U.S.C. Sec. 6925 to operating under the provisions of this chapter, who has information that a hazardous substance has been released to the environment at the owner or operator's facility that may be a threat to human health or the environment, shall issue a notice to the department within ninety days. The notice shall include a description of any remedial actions planned, completed, or underway.

(2) The notice must be posted in a visible, publicly accessible location on the facility, to remain in place until all remedial actions except confirmational monitoring are complete.

(3) After receiving the notice from the facility, the department must review the notice and mail a summary of its contents, along with any additional information deemed appropriate by the department, to:

(a) Each residence and landowner of a residence whose property boundary is within three hundred feet of the boundary of the property where the release occurred or if the release occurred from a pipeline or other facility that does not have a property boundary, within three hundred feet of the actual release;

(b) Each business and landowner of a business whose property boundary is within three hundred feet of the boundary of the property where the release occurred;

(c) Each residence, landowner of a residence, and business with a property boundary within the area where hazardous substances have come to be located as a result of the release;

(d) Neighborhood associations and community organizations representing an area within one mile of the facility and recognized by the city or county with jurisdiction within this area;

(e) The city, county, and local health district with jurisdiction within the areas described in (a), (b), and (c) of this subsection; and

(f) The department of health.

(4) A notice produced by a facility shall provide the following information:

(a) The common name of any hazardous substances released and, if available, the chemical abstract service registry number of these substances;

(b) The address of the facility where the release occurred;

(c) The date the release was discovered;

(d) The cause and date of the release, if known;

(e) The remedial actions being taken or planned to address the release;

(f) The potential health and environmental effects of the hazardous substances released; and

(g) The name, address, and telephone number of a contact person at the facility where the release occurred.

(5) The following releases are exempt from the notification requirements in this section:

(a) Application of pesticides and fertilizers for their intended purposes and according to label instructions;

(b) The lawful and nonnegligent use of hazardous household substances by a natural person for personal or domestic purposes;

(c) The discharge of hazardous substances in compliance with permits issued under chapter 70.94, 90.48, or 90.56 RCW;

(d) De minimis amounts of any hazardous substance leaked or discharged onto the ground;

(e) The discharge of hazardous substances to a permitted waste water treatment facility or from a permitted waste water collection system or treatment facility as allowed by a facility's discharge permit;

(f) Any releases originating from a single-family or multifamily residence, including but not limited to the discharge of oil from a residential home heating oil tank with the capacity of five hundred gallons or less;

(g) Any spill on a public road, street, or highway or to surface waters of the state that has previously been reported to the United States coast guard and the state division of emergency management under chapter 90.56 RCW;

(h) Any release of hazardous substances to the air;

(i) Any release that occurs on agricultural land, including land used to grow trees for the commercial production of wood or wood fiber, that is at least five acres in size, when the effects of the release do not come within three hundred feet of any property boundary. For the purposes of this subsection, agricultural land includes incidental uses that are compatible with agricultural or silvicultural purposes, including, but not limited to, land used for the housing of the owner, operator, or employees, structures used for the storage or repair of equipment, machinery, and chemicals, and any paths or roads on the land; and

(j) Releases that, before January 1, 2003, have been previously reported to the department, or remediated in compliance with a settlement agreement under RCW 70.105D.040(4) or enforcement order or agreed order issued under this chapter or have been the subject of an opinion from the department under



((RCW 70.105D.030(1)(i))) section 2 of this act that no further remedial action is required.

An exemption from the notification requirements of this section does not exempt the owner or operator of a facility from any other notification or reporting requirements, or imply a release from liability under this chapter.

(6) If a significant segment of the community to be notified speaks a language other than English, an appropriate translation of the notice must also be posted and mailed to the department in accordance with the requirements of this section.

(7) The facility where the release occurred is responsible for reimbursing the department within thirty days for the actual costs associated with the production and mailing of the notices under this section.

**Sec. 6.** RCW 43.84.092 and 2018 c 287 s 7, 2018 c 275 s 10, and 2018 c 203 s 14 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the

Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of licensing tuition recovery trust fund, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, (~~the high capacity transportation account~~) the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special

wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide tourism marketing account, the student achievement council tuition recovery trust fund, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Passed by the House March 7, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 96

[Substitute House Bill 1298]

## WEIGHTS AND MEASURES PROGRAM--VARIOUS PROVISIONS

AN ACT Relating to device registration, civil penalties, and service agent registration for the weights and measures program; amending RCW 19.94.010, 19.94.160, 19.94.175, 19.94.190, 19.94.205, 19.94.216, 19.94.258, 19.94.2582, 19.94.2584, 19.94.325, 19.94.340, 19.94.350, 19.94.410, 19.94.430, 19.94.490, 19.94.500, 19.94.510, 19.94.515, and 19.94.517; repealing RCW 19.94.165 and 19.94.195; prescribing penalties; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 19.94.010 and 1995 c 355 s 4 are each amended to read as follows:

(1) ~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter and to any rules adopted pursuant to this chapter unless the context clearly requires otherwise.

(a) "City" means a first-class city or a code city, as defined in RCW 35A.01.035, with a population of over fifty thousand persons.

(b) "City sealer" means the person duly authorized by a city to enforce and administer the weights and measures program within such city and any duly appointed deputy sealer acting under the instructions and at the direction of the city sealer.

(c) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in packaged form, but on which there is marked a selling price based on established price per unit of weight or of measure, shall be construed to be a commodity in package form.

(d) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by persons, or used by persons for the purpose of personal care or in the performance of services ordinarily rendered in or about a household or in connection with personal possessions.

(e) "Cord" means the measurement of wood intended for fuel or pulp purposes that is contained in a space of one hundred twenty-eight cubic feet, when the wood is ranked and well stowed.

(f) "Department" means the department of agriculture of the state of Washington.

(g) "Director" means the director of the department or duly authorized representative acting under the instructions and at the direction of the director.

(h) "Fish" means any waterbreathing animal, including shellfish, such as, but not limited to, lobster, clam, crab, or other mollusca that is prepared, processed, sold, or intended for sale.

(i) "Net weight" means the weight of a commodity excluding any materials, substances, or items not considered to be part of such commodity. Materials, substances, or items not considered to be part of a commodity shall include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(j) "Nonconsumer package" or "package of nonconsumer commodity" means a commodity in package form other than a consumer package and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(k) "Meat" means and shall include all animal flesh, carcasses, or parts of animals, and shall also include fish, shellfish, game, poultry, and meat food products of every kind and character, whether fresh, frozen, cooked, cured, or processed.

(l) "Official seal of approval" means the seal or certificate issued by the director or city sealer which indicates that a secondary weights and measures standard or a weighing or measuring instrument or device conforms with the specifications, tolerances, and other technical requirements adopted in RCW ((19.94.195)) 19.94.190.

(m) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(n) "Poultry" means all fowl, domestic or wild, that is prepared, processed, sold, or intended or offered for sale.

(o) "Service agent" means a person who for hire, award, commission, or any other payment of any kind, installs, tests, inspects, checks, adjusts, repairs, reconditions, or systematically standardizes the graduations of a weighing or measuring instrument or device.

(p) "Ton" means a unit of two thousand pounds avoirdupois weight.

(q) "Weighing or measuring instrument or device" means any equipment or apparatus used commercially to establish the size, quantity, capacity, count, extent, area, heaviness, or measurement of quantities, things, produce, or articles for distribution or consumption, that are purchased, offered or submitted for sale, hire, or award on the basis of weight, measure or count, including any accessory attached to or used in connection with a weighing or measuring instrument or device when such accessory is so designed or installed that its operation affects, or may effect, the accuracy or indication of the device. This definition shall be strictly limited to those weighing or measuring instruments or devices governed by Handbook 44 as adopted under RCW ((19.94.195)) 19.94.190.

(r) "Weight" means net weight as defined in this section.

(s) "Weights and measures" means the recognized standards or units of measure used to indicate the size, quantity, capacity, count, extent, area, heaviness, or measurement of any consumable commodity.

(t) "Secondary weights and measures standard" means the physical standards that are traceable to the primary standards through comparisons, used by the director, a city sealer, or a service agent that under specified conditions defines or represents a recognized weight or measure during the inspection, adjustment, testing, or systematic standardization of the graduations of any weighing or measuring instrument or device.

(2) The director shall prescribe by rule other definitions as may be necessary for the implementation of this chapter.

**Sec. 2.** RCW 19.94.160 and 1995 c 355 s 5 are each amended to read as follows:

Physical weights and measures standards that ((are in conformity with)) conform to the standards of the United States ((as have been supplied to the state by the federal government or otherwise)) obtained by the state for use as state weights and measures standards((, shall)) are the primary standards for weight and measure, when ((the same shall have been)) certified as such by the national institute of standards and technology or any successor organization((, be the primary standards of weight and measure)). The state weights and measures standards shall be kept in a place designated by the director and shall be maintained in such calibration as prescribed by the national institute of standards and technology or any successor organization.

**Sec. 3.** RCW 19.94.175 and 2006 c 358 s 2 are each amended to read as follows:

(1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

- (a) Weighing devices:
  - (i) Small scales "zero to four hundred pounds capacity" ... \$ ~~((40.00))~~ 16.00
  - (ii) Intermediate scales "four hundred one pounds to five thousand pounds capacity" ... \$ ~~((40.00))~~ 60.00
  - (iii) Large scales "over five thousand pounds capacity" ... \$ ~~((75.00))~~ 120.00
  - (iv) Railroad track scales . . . . . \$ ~~((800.00))~~ 1,200.00
- (b) Liquid fuel metering devices:
  - (i) Motor fuel meters with flows of twenty gallons or less per minute . . . . . \$ ~~((40.00))~~ 16.00
  - (ii) Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute . . . . . \$ ~~((32.00))~~ 50.00
  - (iii) Motor fuel meters with flows over one hundred fifty gallons per minute . . . . . \$ ~~((50.00))~~ 75.00
- (c) Liquid petroleum gas meters:
  - (i) With one inch diameter or smaller dispensers . . . . . \$ ~~((25.00))~~ 40.00
  - (ii) With greater than one inch diameter dispensers . . . . . \$ ~~((50.00))~~ 80.00
- (d) Fabric meters . . . . . \$ ~~((40.00))~~ 15.00

(e) Cordage meters . . . . .		<del>((10.00))</del>
	\$	15.00
(f) Mass flow meters . . . . .		<del>((200.00))</del>
	\$	300.00
(g) Taxi meters . . . . .		<del>((25.00))</del>
	\$	40.00

(2) With the exception of subsection (3) of this section, no person shall be required to pay more than the annual registration fee for any weighing or measuring instrument or device in any one year.

(3) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees shall not be set so as to compete with service agents normally engaged in such services.

(4) The weights and measures advisory group within the department must review the fees in subsection (1) of this section and report to stakeholders on the financial status of the program supported by the fees by September 1, 2024, and September 1st every five years thereafter.

**Sec. 4.** RCW 19.94.190 and 1995 c 355 s 9 are each amended to read as follows:

(1) The director and duly appointed city sealers (~~((shall))~~) must enforce the provisions of this chapter.

(2) The department's enforcement proceedings under this chapter are subject to the requirement to provide technical assistance in chapter 43.05 RCW and the administrative procedure act, chapter 34.05 RCW. City sealers undertaking enforcement actions must provide equivalent procedures.

(3) In assessing the amount of a civil penalty, the department or city must give due consideration to the gravity of the violation and history of previous violations.

(4) The director (~~((shall))~~) must adopt rules for enforcing and carrying out the purposes of this chapter including but not limited to the following:

(a) Establishing state standards of weight, measure, or count, and reasonable standards of fill for any commodity in package form;

(b) The establishment of technical (~~((and reporting))~~) test procedures to be followed, any necessary report and record forms, and marks of rejection to be used by the director and city sealers in the discharge of their official duties as required by this chapter;

(c) The establishment of technical test procedures, reporting procedures, and any necessary record and reporting forms to be used by service agents when testing and inspecting instruments or devices under RCW 19.94.255(3) or when otherwise installing, repairing, inspecting, or standardizing the graduations of any weighing or measuring instruments or devices;

(d) The establishment of exemptions from the marking or tagging requirements of RCW 19.94.250 with respect to weighing or measuring instruments or devices of such a character or size that (~~((such))~~) the marking or

tagging would be inappropriate, impracticable, or damaging to the apparatus in question;

(e) The establishment of exemptions from the inspection and testing requirements of RCW 19.94.163 with respect to classes of weighing or measuring instruments or devices found to be of such a character that periodic inspection and testing is unnecessary to ensure continued accuracy;

(f) The establishment of inspection and approval techniques, if any, to be used with respect to classes of weighing or measuring instruments or devices that are designed specifically to be used commercially only once and then discarded, or are uniformly mass-produced by means of a mold or die and are not individually adjustable; ~~((and))~~

(g) The establishment of inspection and testing procedures to be used for classes of weighing or measuring instruments or devices found to be few in number, highly complex, and of such character that differential or special inspection and testing is necessary, including railroad track scales. The department's procedures shall include requirements for the provision, maintenance, and transport of any weight or measure necessary for the inspection and testing at no expense to the state;

(h) Specifications, tolerances, and other technical requirements for commercial weighing and measuring instruments or devices that must be consistent with the most recent edition of the national institute of standards and technology handbook 44 except where modified to achieve state objectives; and

(i) Packaging, labeling, and method of sale of commodities that must be consistent with the most recent edition of the national institute of standards and technology handbook 44 and 130 (for legal metrology and engine fuel quality) except where modified to achieve state objectives.

~~((2) These))~~ (5) Rules ~~((shall))~~ adopted under this section must also include specifications and tolerances for the acceptable range of accuracy required of weighing or measuring instruments or devices and ~~((shall))~~ must be designed to eliminate from use, without prejudice to weighing or measuring instruments or devices that conform as closely as practicable to official specifications and tolerances, those that: (a) ~~((that))~~ Are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly~~((;))~~; or (b) ~~((that))~~ facilitate the perpetration of fraud.

**Sec. 5.** RCW 19.94.205 and 1992 c 237 s 11 are each amended to read as follows:

All weighing or measuring instruments or devices used for commercial purposes within this state must be correct. For the purposes of this chapter, weighing or measuring instruments or devices and weights and measures standards ~~((shall be))~~ are deemed to be "correct" when they conform to all applicable requirements of this chapter ~~((or))~~ and the requirements of any rule adopted by the department under ~~((the authority granted in))~~ this chapter; all other weighing or measuring instruments or devices and weights and measures standards ~~((shall be))~~ are deemed to be "incorrect."

**Sec. 6.** RCW 19.94.216 and 1995 c 355 s 10 are each amended to read as follows:

The department ~~((shall~~



(4)) must biennially inspect and test the secondary weights and measures standards of any city ((for which the appointment of) having a city sealer ((is provided by)) appointed under this chapter and ((shall)) must issue an official seal of approval for the same when found to be correct. The department ((shall)) must, by rule, establish a reasonable fee for this and any other inspection and testing services performed by the department's metrology laboratory. ((Each such fee shall recover at least seventy five percent of the laboratory's costs incurred in performing the service governed by the fee on or before June 30, 1998. The fees established under this subsection may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 for the fiscal year ending 1996, 1997, and 1998. For fiscal year 1999 and thereafter, the fees established under this subsection may not be increased by an amount greater than the fiscal growth factor as provided in RCW 43.135.055.

(2) ~~Biennially inspect and test any weighing or measuring instrument or device used in an agency or institution to which moneys are appropriated by the legislature or of the federal government and shall report any findings in writing to the executive officer of the agency or institution concerned. The department shall collect a reasonable fee, to be set by rule, for testing any such weighing or measuring instrument or device.)~~

**Sec. 7.** RCW 19.94.258 and 2000 c 171 s 61 are each amended to read as follows:

(1) Except as authorized by the department, a service agent ~~((who intends to provide the examination that permits))~~ must be certified by the department before providing services to place a weighing or measuring instrument or device to be placed ((back)) into commercial ((service)) use under RCW 19.94.255(3) ((shall receive an official registration certificate from the director prior to performing such a service)). This registration requirement does not apply to the department or a city sealer.

(2) Except as provided in RCW 19.94.2584, a service agent registration certificate is valid for one year unless the department specifies a longer period by rule. ~~((#))~~ The certificate may be renewed by submitting a ((request for)) renewal application to the department.

**Sec. 8.** RCW 19.94.2582 and 2013 c 144 s 35 are each amended to read as follows:

(1) Each request for ~~((an))~~ a renewal or new official registration certificate must be in writing((, under oath,)) and on a form prescribed by the department and must contain any relevant information as the director may require, including but not limited to the following:

(a) The name and address of the person, corporation, partnership, or sole proprietorship requesting registration;

(b) The names and addresses of all ~~((individuals))~~ persons requesting an official registration certificate from the department; and

(c) The tax registration number as required under RCW 82.32.030 or unified business identifier provided on a business license issued under RCW 19.02.070.

(2) The department may require persons registering as service agents to attain a satisfactory score on competency examinations administered or approved for use by the department. The director may adopt rules for administering and conducting the examination, including adoption of any

examination fees necessary to cover the costs for preparing for and administering the examination. Examination fees are in addition to the application fee under subsection (3) of this section.

(3) Each ~~((individual when))~~ person submitting a ~~((request))~~ new or renewal application for an official registration certificate ~~((or a renewal of such a certificate))~~ must pay a fee to the department in the amount of one hundred ~~((sixty))~~ eighty dollars per ~~((individual))~~ person per year for the duration of the certificate.

~~((3))~~ (4) Renewal applicants filing after a certification expiration date must pay an additional fee equal to twenty percent of the renewal fee unless the applicant submits a declaration or affidavit stating that the applicant has not acted as a service agent following the expiration of the certification.

(5) Persons submitting new or renewal applications for an official registration certificate must have sufficient equipment available to adequately test devices and a means of identifying work the applicant has performed on weighing and measuring devices. The director may adopt rules for these requirements.

(6) The department must issue a decision ~~((on a request for an official registration certificate))~~ within twenty days of receipt of ~~((the request))~~ a new or renewal application. If ~~((an individual is denied their request for an official registration certificate, the department must notify that individual in writing stating))~~ denying an application, the department must state the reasons for the denial ~~((and must refund any payments made by that individual in connection with the request))~~ in a written notice to the applicant.

**Sec. 9.** RCW 19.94.2584 and 2000 c 171 s 62 are each amended to read as follows:

(1) The department ~~((shall have the power to))~~ may revoke, suspend, or refuse to renew the official registration certificate of any service agent for any of the following reasons:

(a) Fraud or deceit in obtaining an official registration certificate under this chapter;

(b) A finding by the department of a pattern of intentional fraudulent or negligent activities in the installation, inspection, testing, checking, adjusting, or systematically standardizing and approving the graduations of any weighing or measuring instrument or device;

(c) Knowingly placing back into commercial service any weighing or measuring instrument or device that is incorrect;

(d) A violation of any provision of this chapter; or

(e) Conviction of a crime or an act constituting a crime under the laws of this state, the laws of another state, or federal law.

(2) ~~((Upon the department's revocation of, suspension of, or refusal to renew an official registration certificate, an individual shall have the right to appeal this decision in accordance with the administrative procedure act, chapter 34.05 RCW))~~ A service agent may appeal the department's decision to revoke, suspend, or refuse to renew the service agent's registration.

**Sec. 10.** RCW 19.94.325 and 1992 c 237 s 23 are each amended to read as follows:

(1) Except as otherwise provided for in this chapter or in any rule adopted under the authority of this chapter, any person who engages in business within this state as a service agent shall biennially submit to the department for inspection and testing all weights and measures standards used by the service agent, or any agent or employee of the service agent. If the department finds such weights and measures standards to be correct, the director shall issue an official seal of approval for each such standard.

(2) The department may by rule adopt reasonable fees for the inspection and testing services performed by the weights and measures laboratory pursuant to this section.

(3) A service agent shall not use ~~((in the installation, inspection, adjustment, repair, or reconditioning of any weighing or measuring instrument or device))~~ any weight or measure standard that does not have a valid, official seal of approval from the director to install, inspect, adjust, repair, or recondition any weighing or measuring instrument or device. Any service agent who violates this section is subject to a civil penalty ~~((of no more than five hundred dollars))~~ to be assessed by the director ranging up to one thousand dollars per occurrence.

**Sec. 11.** RCW 19.94.340 and 1992 c 237 s 24 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, commodities in liquid form ~~((shall))~~ must be sold only by liquid measure or by weight, and, except as otherwise provided in this chapter, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count.

(2) Liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such methods provide accurate information as to the quantity of commodity sold.

(3) The provisions of this section ~~((shall))~~ do not apply to:

(a) Commodities ~~((that are))~~ sold for immediate consumption on the premises where sold;

(b) Vegetables when sold by the head or bunch;

(c) Commodities in containers standardized by a law of this state or by federal law;

(d) Commodities in package form when there exists a general consumer usage to express the quantity in some other manner;

(e) Concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure; or

(f) Unprocessed vegetable and animal fertilizer when sold by cubic measure.

(4) When adopting rules under RCW 19.94.190, the director may issue such ~~((reasonable))~~ rules as ~~((are))~~ necessary to assure that amounts of commodity sold are ~~((determined))~~ in accordance with good commercial practice and ~~((are so determined and represented to be))~~ provide accurate ~~((and informative))~~ information to all interested parties.

**Sec. 12.** RCW 19.94.350 and 1992 c 237 s 25 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, any commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, offered or exposed for sale or sold in

intrastate commerce, ~~((shall))~~ must bear on the outside of the package such definite, plain, and conspicuous declaration of:

(a) The identity of the commodity contained within the package unless the same can easily be identified through the package;

(b) The net quantity of the contents in terms of weight, measure or count; and

(c) In the case of any package not sold on the premises where packed, the name and place of business of the manufacturer, packer, or distributor, as may be prescribed by rule issued by the director.

(2) ~~((In connection with the declaration))~~ The declaration of weight, measure, or count required under subsection (1)(b) of this section, ~~((neither))~~ must not include or be associated with the qualifying term "when packed," ~~((or))~~ any words of similar import, ~~((nor))~~ or any term qualifying a unit of weight, measure, or count (for example, "jumbo", "giant", "full", "or over", and the like) that tends to exaggerate the amount of commodity in a package ~~((shall be used))~~.

(3) With respect to the declaration of weight, measure, or count required under subsection (1)(b) of this section, the director ~~((shall))~~ may by rule establish: (a) Reasonable variations to be allowed ~~((;))~~; (b) exemptions as to small packages ~~((and))~~; (c) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at time of sale to the consumer; and (d) methods for checking the net contents of packaged goods.

**Sec. 13.** RCW 19.94.410 and 1995 c 355 s 19 are each amended to read as follows:

Butter, oleomargarine, and margarine ~~((shall be))~~ offered ~~((and exposed))~~ for sale ~~((and))~~ must be sold by weight.

**Sec. 14.** RCW 19.94.430 and 1969 c 67 s 43 are each amended to read as follows:

When in package form and when packed, kept, offered, exposed for sale or sold, flour such as, but not limited to, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits ~~((shall be packaged only in units of five, ten, twenty five, fifty and one hundred pounds avoirdupois weight. PROVIDED, That packages in units of less than five pounds or more than one hundred pounds shall be permitted))~~ must be sold by weight.

**Sec. 15.** RCW 19.94.490 and 1992 c 237 s 32 are each amended to read as follows:

Any person who ~~((shall))~~ hinders or obstructs in any way the director or a city sealer in the performance of ~~((his or her))~~ official duties under this chapter is subject to a civil penalty ~~((of no more than))~~ up to five ~~((hundred))~~ thousand dollars.

**Sec. 16.** RCW 19.94.500 and 1992 c 237 s 33 are each amended to read as follows:

Any person who ~~((shall))~~ impersonates in any way the director or a city sealer, by using an official seal of approval without specific authorization to do

so or by using a counterfeit seal of approval, or in any other manner, is subject to a civil penalty of no more than ~~((one))~~ five thousand dollars per occurrence.

**Sec. 17.** RCW 19.94.510 and 1995 c 355 s 21 are each amended to read as follows:

(1) The acts or omissions under this section are violations of this chapter.

(2) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, performs any one of the acts enumerated in (a) through (l) of this subsection is subject to a civil penalty of no more than ~~((one))~~ five thousand dollars per violation per occurrence:

(a) Use or have in possession for the purpose of using for any commercial purpose a weighing or measuring instrument or device that is intentionally calculated to falsify any weight, measure, or count of any commodity, or to sell, offer, expose for sale or hire or have in possession for the purpose of selling or hiring an incorrect weighing or measuring instrument or device or any weighing or measuring instrument or device calculated to falsify any weight or measure.

(b) Knowingly use or have in possession for current use in the buying or selling of any commodity or thing, for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weight, measurement, or count, or in the determination of weight, measurement or count, when a charge is made for such determination, any incorrect weighing or measuring instrument or device.

(c) Dispose of any rejected weighing or measuring instrument or device in a manner contrary to law or rule.

(d) Remove from any weighing or measuring instrument or device, contrary to law or rule, any tag, seal, stamp or mark placed thereon by the director or a city sealer.

(e) Sell, offer or expose for sale less than the quantity he or she represents of any commodity, thing or service.

(f) Take more than the quantity he or she represents of any commodity, thing, or service when, as buyer, he or she furnishes the weight, measure, or count by means of which the amount of the commodity, thing or service is determined.

(g) Keep for the purpose of sale, advertise, offer or expose for sale or sell any commodity, thing or service known to be in a condition or manner contrary to law or rule.

(h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weighing or measuring instrument or device that is not so positioned that its indications may be accurately read and the weighing or measuring operation observable from some position which may reasonably be assumed by a customer.

(i) Knowingly approve or issue an official seal of approval for any weighing or measuring instrument or device known to be incorrect.

(j) Find a weighing or measuring instrument or device to be correct under RCW 19.94.255 when the person knows the instrument or device is incorrect.

(k) Fails to disclose to the department or a city sealer any knowledge of information relating to, or observation of, any device or instrument added to or modifying any weighing or measuring instrument or device for the purpose of selling, offering, or exposing for sale, less than the quantity represented of a

commodity or calculated to falsify weight or measure, if the person is a service agent.

(1) Violate any other provision of this chapter or of the rules adopted under the provisions of this chapter for which a specific penalty has not been prescribed.

~~((2))~~ (3) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, violates RCW 19.94.390 as determined by the examination procedure adopted by or under RCW 19.94.390(2) is subject to a civil penalty of ~~((not))~~ no more than ~~((one))~~ two thousand dollars per violation per occurrence.

~~((3))~~ (4) Any person who, by himself or herself, by his or her agent or employee, or as the agent or employee of another person, performs any of the following acts is subject to a civil penalty of no more than ~~((five))~~ ten thousand dollars per violation per occurrence:

(a) Knowingly adds to or modifies any weighing or measuring instrument or device by the addition of a device or instrument that would allow the sale, or the offering or exposure for sale, of less than the quantity represented of a commodity or falsification of weight or measure.

(b) Commits as a fourth or subsequent ~~((infraction))~~ violation any of the acts listed in subsection ~~((1)-(3))~~ (2) or (3) of this section.

**Sec. 18.** RCW 19.94.515 and 1995 c 355 s 22 are each amended to read as follows:

A person who owns or uses a weighing or measuring instrument or device and uses or permits the use of the instrument for commercial purposes in violation of RCW 19.94.015 is subject to a civil penalty of ~~((fifty))~~ one hundred dollars for each such instrument or device used or permitted to be used in violation of RCW 19.94.015.

**Sec. 19.** RCW 19.94.517 and 1995 c 355 s 23 are each amended to read as follows:

(1) Whenever the department or a city sealer tests or inspects a weighing or measuring instrument or device and finds the instrument or device to be incorrect to the economic benefit of the owner/operator of the weighing or measuring instrument or device and to the economic detriment of the customer, the owner of the weighing or measuring instrument or device ~~((may be))~~ is subject to the following civil penalties:

Device deviations outside the tolerances stated in Handbook 44.

	<u>Penalty</u>
Small weighing or measuring instruments or devices:	
First violation . . . . .	\$ <del>((50.00))</del> <u>200.00</u>
Second or subsequent violation within one year of first violation . . . . .	\$ <del>((150.00))</del> <u>500.00</u>
Medium weighing or measuring instruments or devices:	
First violation . . . . .	\$ <del>((100.00))</del> <u>400.00</u>

Second or subsequent violation within one year of first violation . . . . .	\$	<del>((300.00))</del> <u>1,000.00</u>
Large weighing or measuring instruments or devices:		
First violation . . . . .	\$	<del>((200.00))</del> <u>500.00</u>
Second or subsequent violation within one year of first violation . . . . .	\$	<del>((500.00))</del> <u>2,000.00</u>

(2) For the purposes of this section:

(a) The following are small weighing or measuring instruments or devices: Scales of zero to four hundred pounds capacity, liquid fuel metering devices with flows of not more than twenty gallons per minute, liquid petroleum gas meters with one inch in diameter or smaller dispensers, fabric meters, cordage meters, and taxi meters.

(b) The following are medium weighing or measuring instruments or devices: Scales of four hundred one to five thousand pounds capacity, liquid fuel metering devices with flows of more than twenty but not more than one hundred fifty gallons per minute, and mass flow meters.

(c) The following are large weighing or measuring instruments or devices: Liquid petroleum gas meters with greater than one inch diameter dispensers, liquid fuel metering devices with flows over one hundred fifty gallons per minute, and scales of more than five thousand pounds capacity and scales of more than five thousand pounds capacity with supplemental devices.

(3) ~~((The director or a city sealer shall issue the appropriate civil penalty concurrently with the conclusion of the test or inspection.~~

(4) ~~The weighing or measuring instrument or device owner ((shall have the right to)) may appeal the civil penalty ((in accordance with the administrative procedure act, chapter 34.05 RCW)).~~

NEW SECTION. Sec. 20. The following acts or parts of acts are each repealed:

(1) RCW 19.94.165 (Commercial instruments or devices to be correct) and 1995 c 355 s 6 & 1992 c 237 s 6; and

(2) RCW 19.94.195 (Specifications, tolerances, technical requirements—Adoption—Hearing—Notice) and 1992 c 237 s 10.

NEW SECTION. Sec. 21. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

Passed by the House March 5, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 97

[Second Substitute House Bill 1303]

## WORKING CONNECTIONS CHILD CARE--WORK REQUIREMENT FOR CERTAIN STUDENTS

AN ACT Relating to improving access and completion for students at institutions of higher education, especially at community and technical colleges, by removing restrictions on subsidized child care; amending RCW 43.216.135; adding a new section to chapter 28B.50 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** (1) The legislature recognizes the following:

(a) In Washington, over forty-six thousand community and technical college (CTC) students, which represents twenty-three percent of all CTC students in the state, are parents of dependent children. Student parents represent more than one-quarter of CTC students in Washington who receive financial aid. Financial assistance however, does not sufficiently cover many student parents' college expenses.

(b) Caregiving demands affect student parents' ability to devote the time needed to succeed in school. Nearly three-quarters of women community college students living with dependents report spending over twenty hours per week caring for dependents. Many of these students report that care demands are likely to lead them to drop out: Forty-three percent of women and thirty-seven percent of men at two-year institutions who live with children say they are likely or very likely to withdraw from college to care for dependents.

(c) In addition, child care costs represent a large financial burden for parents who are in college. The annual cost of full-time, center-based infant care averages over thirteen thousand dollars in Washington. Given the financial pressures experienced by student parents, both married and single, assistance with paying for quality child care services could dramatically improve their ability to make ends meet and complete their higher education programs.

(d) Work requirements imposed on student parents as a condition for receiving child care assistance can have negative consequences for parents in education or job training. Students working more than fifteen hours per week achieve significantly lower college attainment compared with those who work fewer hours. Nationally, fifty-eight percent of community college student parents who work fifteen or more hours per week leave school without earning a credential within six years of enrollment, compared with forty-eight percent who work less than fifteen hours per week.

(2) Therefore, the legislature intends to improve access and completion rates of student parents enrolled in community and technical colleges by reducing existing restrictions to subsidized child care.

**Sec. 2.** RCW 43.216.135 and 2018 c 52 s 6 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards



established in this section intended to promote stability, quality, and continuity of early care and education programming.

(2) As recommended by Public Law 113-186, authorizations for the working connections child care subsidy shall be effective for twelve months beginning July 1, 2016, unless an earlier date is provided in the omnibus appropriations act.

(3) Existing child care providers serving nonschool-age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate at a level 3 or higher in the early achievers program by December 31, 2019. If a child care provider rates below a level 3 by December 31, 2019, the provider must complete remedial activities with the department, and rate at a level 3 or higher no later than June 30, 2020.

(4) Effective July 1, 2016, a new child care provider serving nonschool-age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within twelve months of enrollment; and

(c) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If a child care provider rates below a level 3 within thirty months from enrollment into the early achievers program, the provider must complete remedial activities with the department, and rate at a level 3 or higher within six months of beginning remedial activities.

(5) If a child care provider does not rate at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(6) If a child care provider serving nonschool-age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(7) The department shall implement tiered reimbursement for early achievers program participants in the working connections child care program rating at level 3, 4, or 5.

(8) The department shall account for a child care copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule.

(9)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(i) In the last six months have:

(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(B) Received child welfare services as defined and used by chapter 74.13 RCW; or

(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW;

(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020; and

(iii) Are residing with a biological parent or guardian.

(b) Children who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services identified in this subsection to maintain twelve-month authorization. The department of social and health services' involvement with the family referred for working connections child care ends when the family's child protective services, child welfare services, or family assessment response case is closed.

(10)(a) Beginning August 1, 2020, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is:

(i) A full-time student of a community, technical, or tribal college; and

(ii) Pursuing a certificate in nursing, early childhood education, a mental health profession, or paraeducation.

(b) An applicant or consumer is a full-time student for the purposes of this subsection if he or she meets the college's definition of a full-time student. The student must be maintaining passing grades and be in good standing pursuant to college attendance requirements.

(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a wait list for working connections child care benefits.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.50 RCW to read as follows:

Nothing in RCW 43.216.135 requires a community or technical college to expand any of its existing child care facilities. Any additional child care services provided by a community or technical college as a result of RCW 43.216.135 must be provided within existing resources and existing facilities.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House March 6, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 98

[Substitute House Bill 1356]

PEER SUPPORT GROUP COUNSELORS--TESTIMONIAL PRIVILEGE

AN ACT Relating to privileged communication with peer support group counselors; and amending RCW 5.60.060.

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

**Sec. 1.** RCW 5.60.060 and 2018 c 165 s 1 are each amended to read as follows:

(1) A spouse or domestic partner shall not be examined for or against his or her spouse or domestic partner, without the consent of the spouse or domestic partner; nor can either during marriage or during the domestic partnership or afterward, be without the consent of the other, examined as to any communication made by one to the other during the marriage or the domestic partnership. 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 or domestic partner if the marriage or the domestic partnership occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said spouse or domestic partner against any child of whom said spouse or domestic partner is the parent or guardian, nor to a proceeding under chapter 71.05 or 71.09 RCW: PROVIDED, That the spouse or the domestic partner of a person sought to be detained under chapter 71.05 or 71.09 RCW may not be compelled to testify and shall be so informed by the court prior to being called as a witness.

(2)(a) 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.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy, a Christian Science practitioner listed in the Christian Science Journal, or a priest shall not, without the consent of a person making the confession or sacred confidence, be examined as to any confession or sacred confidence 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 71.05.360 (8) and (9), a physician or surgeon or osteopathic physician or surgeon or podiatric 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.

(6)(a) A peer support group counselor shall not, without consent of the (~~law enforcement officer, limited authority law enforcement officer, or firefighter~~) first responder or jail staff person making the communication, be compelled to testify about any communication made to the counselor by the (~~officer or~~

~~firefighter~~) first responder or jail staff person while receiving counseling. The counselor must be designated as such by the agency employing the (~~officer or firefighter~~) first responder or jail staff person prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding (~~officer or firefighter~~) first responder or jail staff person, a witness, or a party to the incident which prompted the delivery of peer support group counseling services to the (~~law enforcement officer, limited authority law enforcement officer, or firefighter~~) first responder or jail staff person.

(b) For purposes of this section:

(i) "First responder" means:

(A) A law enforcement officer;

(B) A limited authority law enforcement officer;

(C) A firefighter;

(D) An emergency services dispatcher or recordkeeper;

(E) Emergency medical personnel, as licensed or certified by this state; or

(F) A member or former member of the Washington national guard acting in an emergency response capacity pursuant to chapter 38.52 RCW.

(ii) "Law enforcement officer" means a general authority Washington peace officer as defined in RCW 10.93.020;

~~((ii))~~ (iii) "Limited authority law enforcement officer" means a limited authority Washington peace officer as defined in RCW 10.93.020 who is employed by the department of corrections, state parks and recreation commission, department of natural resources, liquor and cannabis board, or Washington state gambling commission; and

~~((iii))~~ (iv) "Peer support group counselor" means ((a)):

(A) (~~Law enforcement officer, limited authority law enforcement officer, firefighter,~~) A first responder or jail staff person or a civilian employee of ((a law enforcement agency, fire department,)) a first responder entity or agency, local jail, or state agency who has received training to provide emotional and moral support and counseling to ((an officer or firefighter)) a first responder or jail staff person who needs those services as a result of an incident in which the ((officer or firefighter)) first responder or jail staff person was involved while acting in his or her official capacity; or

(B) A nonemployee counselor who has been designated by the ((law enforcement agency, fire department)) first responder entity or agency, local jail, or state agency to provide emotional and moral support and counseling to ((an officer or firefighter)) a first responder or jail staff person who needs those services as a result of an incident in which the ((officer or firefighter)) first responder or jail staff person was involved while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made between the victim and the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a community sexual assault program or underserved populations provider, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to

victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

(8) A domestic violence advocate may not, without the consent of the victim, be examined as to any communication between the victim and the domestic violence advocate.

(a) For purposes of this section, "domestic violence advocate" means an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by, or under the direct supervision of, a law enforcement agency, a prosecutor's office, or the child protective services section of the department of social and health services as defined in RCW 26.44.020.

(b) A domestic violence advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. This section does not relieve a domestic violence advocate from the requirement to report or cause to be reported an incident under RCW 26.44.030(1) or to disclose relevant records relating to a child as required by RCW 26.44.030(14). Any domestic violence advocate participating in good faith in the disclosing of communications under this subsection is immune from liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this subsection, the good faith of the domestic violence advocate who disclosed the confidential communication shall be presumed.

(9) A mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW may not disclose, or be compelled to testify about, any information acquired from persons consulting the individual in a professional capacity when the information was necessary to enable the individual to render professional services to those persons except:

(a) With the written authorization of that person or, in the case of death or disability, the person's personal representative;

(b) If the person waives the privilege by bringing charges against the mental health counselor licensed under chapter 18.225 RCW;

(c) In response to a subpoena from the secretary of health. The secretary may subpoena only records related to a complaint or report under RCW 18.130.050;

(d) As required under chapter 26.44 or 74.34 RCW or RCW 71.05.360 (8) and (9); or

(e) To any individual if the mental health counselor, independent clinical social worker, or marriage and family therapist licensed under chapter 18.225 RCW reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the individual or any other individual; however, there is no obligation on the part of the provider to so disclose.

(10) An individual who acts as a sponsor providing guidance, emotional support, and counseling in an individualized manner to a person participating in an alcohol or drug addiction recovery fellowship may not testify in any civil action or proceeding about any communication made by the person participating in the addiction recovery fellowship to the individual who acts as a sponsor except with the written authorization of that person or, in the case of death or disability, the person's personal representative.

Passed by the House March 1, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 99

[Substitute House Bill 1360]

### DRIVING RECORD ABSTRACTS--VARIOUS PROVISIONS

AN ACT Relating to abstracts of driving records; and amending RCW 46.52.130.

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

**Sec. 1.** RCW 46.52.130 and 2017 c 43 s 2 are each amended to read as follows:

Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section. For the purposes of this section, an "agent" means a representative of an authorized recipient that has contracted with the recipient to request driving records on its behalf and insurance pools established under RCW 48.62.031 of which the authorized recipient is a member.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** Unless otherwise required in this section, the release of an abstract does not require a signed statement by the subject of the abstract. An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract or that named individual's attorney, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i)(A) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(B) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (I) The employee or prospective employee that authorizes the release of the record; and (II) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

(C) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(D) No employer or prospective employer, nor any agent of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agent of the employer or prospective employer, as may be required to ensure the application of this subsection.

(ii) In addition to the methods described in (b)(i) of this subsection, the director may enter into a contractual agreement with an employer or its agent for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective or existing volunteer vanpool drivers for insurance and risk management needs.

The director may enter into a contractual agreement with a transit authority or its agent for the purpose of reviewing the driving records of existing vanpool drivers for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that does not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty, or by registered tow truck operators as defined in RCW 46.55.010 in the performance of their occupational duties while at the scene of a roadside impound or recovery so long as they are not issued a citation. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;



(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **Attorneys—City attorneys, county prosecuting attorneys, and named individual's attorney of record.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys, county prosecuting attorneys, or the named individual's attorney of record. City attorneys, county prosecuting attorneys, or the named individual's attorney of record may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be

furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031, or their agents, for employment and risk management purposes. The director may enter into a contractual agreement with a unit of local government, or its agent, for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts. "Unit of local government" includes an insurance pool established under RCW 48.62.031.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

(6) Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

Passed by the House March 8, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 100

[House Bill 1375]

### PORT DISTRICT ELECTIONS--CAMPAIGN CONTRIBUTION LIMITS

AN ACT Relating to applying campaign contribution limits to candidates for all port districts; and amending RCW 42.17A.405.

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

**Sec. 1.** RCW 42.17A.405 and 2013 c 311 s 1 are each amended to read as follows:

(1) The contribution limits in this section apply to:

- (a) Candidates for legislative office;
- (b) Candidates for state office other than legislative office;
- (c) Candidates for county office;
- (d) Candidates for ((special purpose)) port district office ((if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters));
- (e) Candidates for city council office;
- (f) Candidates for mayoral office;
- (g) Candidates for school board office;
- (h) Candidates for public hospital district board of commissioners in districts with a population over one hundred fifty thousand;
- (i) Persons holding an office in (a) through (h) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;
- (j) Caucus political committees;
- (k) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a legislative office, county office, city council office, mayoral office, school board office, or public hospital district board of commissioners that in the aggregate exceed eight hundred dollars or to a candidate for a public office in a ((special purpose)) port district or a state office other than a legislative office that in the aggregate exceed one thousand six hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

(3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, a city official, a school board member, a public hospital district commissioner, or a public official in a ((special purpose)) port district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, city official, school board member, public hospital district commissioner, or public official in a ((special purpose)) port district during a recall campaign that in the aggregate exceed eight hundred dollars if for a legislative office, county office, school board office, public hospital district office, or city office, or one thousand six hundred dollars if for a ((special purpose)) port district office or a state office other than a legislative office.

(4)(a) Notwithstanding subsection (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) eighty cents multiplied

by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed forty cents times the number of registered voters in the jurisdiction from which the candidate is elected.

(5)(a) Notwithstanding subsection (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, city official, school board member, public hospital district commissioner, or a public official in a (~~(special purpose)~~) port district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, city official, school board member, public hospital district commissioner, or a public official in a (~~(special purpose)~~) port district during a recall campaign that in the aggregate exceed (i) eighty cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed forty cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

(6) For purposes of determining contribution limits under subsections (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

(7) Notwithstanding subsections (2) through (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed eight hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed four thousand dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

(8) For the purposes of RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565, a contribution to the authorized political committee of a candidate or of an official specified in subsection (1) of this section against whom recall charges have been filed is considered to be a contribution to the candidate or official.

(9) A contribution received within the twelve-month period after a recall election concerning an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

(10) The contributions allowed by subsection (3) of this section are in addition to those allowed by subsection (2) of this section, and the contributions allowed by subsection (5) of this section are in addition to those allowed by subsection (4) of this section.

(11) RCW 42.17A.125, 42.17A.405 through 42.17A.415, 42.17A.450 through 42.17A.495, 42.17A.500, 42.17A.560, and 42.17A.565 apply to a special election conducted to fill a vacancy in an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a state office candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

(13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the official.

(14) No person may accept contributions that exceed the contribution limitations provided in this section.

(15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates;

(b) An expenditure by a political committee for its own internal organization or fund-raising without direct association with individual candidates; or

(c) An expenditure or contribution for independent expenditures as defined in RCW 42.17A.005 or electioneering communications as defined in RCW 42.17A.005.

Passed by the House March 5, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 101

[Substitute House Bill 1403]

### LOCAL BUSINESS AND OCCUPATION TAXES--APPORTIONMENT

AN ACT Relating to simplifying the administration of municipal business and occupation tax apportionment; amending RCW 35.102.130; and providing an effective date.

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

**Sec. 1.** RCW 35.102.130 and 2017 c 323 s 511 are each amended to read as follows:

A city that imposes a business and occupation tax must provide for the allocation and apportionment of a person's gross income, other than persons subject to the provisions of chapter 82.14A RCW, as follows:

(1) Gross income derived from all activities other than those taxed as service or royalties must be allocated to the location where the activity takes place.

(a) In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

(b)(i) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

(A) The seller's place of business if the purchaser receives the digital product at the seller's place of business;

(B) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(C) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(D) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(E) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(c) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(ii) If none of the methods in (b)(i) of this subsection (1) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in (b)(i)(A) through (E) of

this subsection (1), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection (1)(b)(ii). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in (b)(i)(A) through (E) of this subsection (1) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

(iii) For purposes of this subsection (1)(b), the following definitions apply:

(A) "Digital automated services," "digital codes," and "digital goods" have the same meaning as in RCW 82.04.192;

(B) "Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050 (2)(g) and (6)(c); and

(C) "Receive" has the same meaning as in RCW 82.32.730.

(c) If a business activity allocated under this subsection (1) takes place in more than one city and all cities impose a gross receipts tax, a credit must be allowed as provided in RCW 35.102.060; if not all of the cities impose a gross receipts tax, the affected cities must allow another credit or allocation system as they and the taxpayer agree.

(2) Gross income derived as royalties from the granting of intangible rights must be allocated to the commercial domicile of the taxpayer.

(3) Gross income derived from activities taxed as services shall be apportioned to a city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:

(i) The individual is primarily assigned within the city;

(ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of his or her service for the tax period in the city; or

(iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of his or her service in any city, and the employee resides in the city.

(b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if(

(i) the customer location is in the city(

(ii) The income-producing activity is performed in more than one location and a greater proportion of the service-income-producing activity is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or

(iii) The service-income-producing activity is performed within the city, and the taxpayer is not taxable in the customer location)).

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable under (b) of this subsection (3) to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of this subsection (3)(c), "not taxable" means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.

(d) If the allocation and apportionment provisions of this subsection (3) do not fairly represent the extent of the taxpayer's business activity in the city (~~or cities in which the taxpayer does business~~), the taxpayer may petition for or the tax (~~administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income~~) administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (i) Separate accounting;
- (ii) The (~~use of a single factor~~) exclusion of any one or (more of the factors;
- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(e) The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection (d) of this subsection (3) must prove by a preponderance of the evidence:

- (i) That the allocation and apportionment provisions of this subsection (3) do not fairly represent the extent of the taxpayer's business activity in the city; and
- (ii) That the alternative to such provisions is reasonable.

The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(f) If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection (3).

(g) A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of,



the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.

(4) The definitions in this subsection apply throughout this section.

(a) "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.

(b) "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.

~~((e))~~ (d) "Customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.

(e) "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

~~((d))~~ (f) "Customer location" means the ((city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place)) following:

(i) For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.

(ii) For a customer not engaged in business, if the service does not require the customer to be physically present:

(A) The customer's residence; or

(B) If the customer's residence is not known, the customer's billing/ mailing address.

(iii) For a customer engaged in business:

(A) Where the services are ordered from;

(B) At the customer's billing/ mailing address if the location from which the services are ordered is not known; or

(C) At the customer's commercial domicile if none of the above are known.

~~((e))~~ (g) "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.

~~((f))~~ (h) "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.

~~((g))~~ (i) "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous

year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

~~((h) "Taxable in the customer location" means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.))~~

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2020.

Passed by the House March 4, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 102

[House Bill 1408]

### STATE RETIREMENT SYSTEMS--PENSION SURVIVORSHIP BENEFIT--WRITTEN CONSENT

AN ACT Relating to clarifying the written consent requirement for survivorship benefit options; and amending RCW 41.26.460, 41.32.530, 41.32.785, 41.32.851, 41.35.220, 41.37.170, 41.40.188, 41.40.660, 41.40.845, and 43.43.271.

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

**Sec. 1.** RCW 41.26.460 and 2009 c 523 s 5 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.26.430 or disability retirement under RCW 41.26.470, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or a domestic partner, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married or a domestic partner and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal or domestic partner consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal or domestic partner consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement

marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse or a person not their domestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.26.530(1) and the member's divorcing spouse or domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spousal or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 41.26.430(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or domestic partner shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 2.** RCW 41.32.530 and 2002 c 158 s 8 are each amended to read as follows:

(1) Upon an application for retirement for service under RCW 41.32.480 or retirement for disability under RCW 41.32.550, approved by the department,

every member shall receive the maximum retirement allowance available to him or her throughout life unless prior to the time the first installment thereof becomes due he or she has elected, by executing the proper application therefor, to receive the actuarial equivalent of his or her retirement allowance in reduced payments throughout his or her life with the following options:

(a) Standard allowance. If he or she dies before he or she has received the present value of his or her accumulated contributions at the time of his or her retirement in annuity payments, the unpaid balance shall be paid to his or her estate or to such person, trust, or organization as he or she shall have nominated by written designation executed and filed with the department.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person who has an insurable interest in the member's life. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) Such other benefits shall be paid to a member receiving a retirement allowance under RCW 41.32.497 as the member may designate for himself, herself, or others equal to the actuarial value of his or her retirement annuity at the time of his retirement: PROVIDED, That the board of trustees shall limit withdrawals of accumulated contributions to such sums as will not reduce the member's retirement allowance below one hundred and twenty dollars per month.

(d) A member whose retirement allowance is calculated under RCW 41.32.498 may also elect to receive a retirement allowance based on options available under this subsection that includes the benefit provided under RCW 41.32.770. This retirement allowance option shall also be calculated so as to be actuarially equivalent to the maximum retirement allowance and to the options available under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.32.470 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.32.480(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The separate single life benefits of the member and the nonmember ex spouse are not (i) subject to the minimum benefit provisions of RCW 41.32.4851, or (ii) the minimum benefit annual increase amount eligibility provisions of RCW 41.32.489 (2)(b) and (3)(a).

(d) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 3.** RCW 41.32.785 and 2002 c 158 s 9 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.32.765 or retirement for disability under RCW 41.32.790, a member shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of

retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and member's spouse do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one



year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.32.815 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.32.765(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 4.** RCW 41.32.851 and 2002 c 158 s 10 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.32.875 or retirement for disability under RCW 41.32.880, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the retired member, all benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to such person or persons as the retiree shall have nominated by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty-percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.32.875(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.32.875(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

~~(c) ((Any benefit distributed pursuant to chapter 41.31A RCW after the date of the dissolution order creating separate benefits for a member and nonmember ex spouse shall be paid solely to the member.~~

~~(d))~~ The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 5.** RCW 41.35.220 and 2002 c 158 s 11 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.35.420 or 41.35.680 or retirement for disability under RCW 41.35.440 or 41.35.690, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life.

(i) For members of plan 2, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(ii) For members of plan 3, upon the death of the retired member, the member's benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member of plan 2 who meets the length of service requirements of RCW 41.35.420, or a member of plan 3 who meets the length of service requirements of RCW 41.35.680(1), and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 41.35.420(1) for members of plan 2, or RCW 41.35.680(1) for members of plan 3, and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

~~(c) ((Any benefit distributed pursuant to chapter 41.31A RCW after the date of the dissolution order creating separate benefits for a member and nonmember ex spouse shall be paid solely to the member.~~

~~(d))~~ The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 6.** RCW 41.37.170 and 2004 c 242 s 23 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.37.210 or retirement for disability under RCW 41.37.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. If the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or the person or persons, trust, or organization the retiree nominated by written designation duly executed and filed with the department; or if there is no designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there is neither a designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, the portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) The department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) The department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.37.210 and the

member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.37.210(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 7.** RCW 41.40.188 and 2002 c 158 s 12 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.180 or retirement for disability under RCW 41.40.210 or 41.40.230, a member shall elect to have the retirement allowance paid pursuant to one of the following options calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(c) A member may elect to include the benefit provided under RCW 41.40.640 along with the retirement options available under this section. This retirement allowance option shall be calculated so as to be actuarially equivalent to the options offered under this subsection.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one



year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.180(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.180(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The separate single life benefits of the member and the nonmember ex spouse are not (i) subject to the minimum benefit provisions of RCW 41.40.1984, or (ii) the minimum benefit annual increase amount eligibility provisions of RCW 41.40.197 (2)(b) (~~and (3)(a)~~).

(d) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 8.** RCW 41.40.660 and 2003 c 294 s 6 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.630 or retirement for disability under RCW 41.40.670, a member shall elect to have the

retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. However, if the retiree dies before the total of the retirement allowance paid to such retiree equals the amount of such retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

(4) No later than July 1, 2001, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(5) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.720 and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.630(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate

benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (4) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 9.** RCW 41.40.845 and 2003 c 294 s 9 are each amended to read as follows:

(1) Upon retirement for service as prescribed in RCW 41.40.820 or retirement for disability under RCW 41.40.825, a member shall elect to have the retirement allowance paid pursuant to one of the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout such member's life. Upon the death of the member, the member's benefits shall cease.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a person nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married and both the member and the member's spouse do not give written consent to an option under this section, the department shall pay a joint and fifty percent survivor benefit calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3) No later than July 1, 2002, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse from a postretirement marriage as a survivor during a one-year period beginning one year after the date of the postretirement marriage provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage prior to the effective date of the rules adopted under this section and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who meets the length of service requirements of RCW 41.40.820(1) and the member's divorcing spouse be divided into two separate benefits payable over the life of each spouse.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried at the time of retirement remains subject to the spousal consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse shall be eligible to commence receiving their separate benefit upon reaching the age provided in RCW 41.40.820(1) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse if the nonmember ex spouse was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse shall be eligible to commence receiving their separate benefits upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

~~(c) ((Any benefit distributed under chapter 41.31A RCW after the date of the dissolution order creating separate benefits for a member and nonmember ex spouse shall be paid solely to the member.~~

(4)) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

**Sec. 10.** RCW 43.43.271 and 2009 c 522 s 4 are each amended to read as follows:

(1) A member commissioned on or after January 1, 2003, upon retirement for service as prescribed in RCW 43.43.250 shall elect to have the retirement allowance paid pursuant to the following options, calculated so as to be actuarially equivalent to each other.

(a) Standard allowance. A member electing this option shall receive a retirement allowance payable throughout the member's life. However, if the retiree dies before the total of the retirement allowance paid to the retiree equals the amount of the retiree's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the retiree shall have nominated by written designation duly executed and filed with the department; or if there be no such designated person or persons still living at the time of the retiree's death, then to the surviving spouse or domestic partner; or if there be neither such designated person or persons still living at the time of death nor a surviving spouse or domestic partner, then to the retiree's legal representative.

(b) The department shall adopt rules that allow a member to select a retirement option that pays the member a reduced retirement allowance and upon death, such portion of the member's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the member by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred percent survivor option and a joint and fifty percent survivor option.

(2)(a) A member, if married or in a domestic partnership, must provide the written consent of his or her spouse or domestic partner to the option selected under this section, except as provided in (b) and (c) of this subsection. If a member is married or in a domestic partnership and both the member and member's spouse or domestic partner do not give written consent to an option under this section, the department will pay the member a joint and fifty percent survivor benefit and record the member's spouse or domestic partner as the beneficiary. This benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless consent by the spouse or domestic partner is not required as provided in (b) and (c) of this subsection.

(b) Written consent from a spouse or domestic partner is not required if a member who is married or a domestic partner selects a joint and survivor option under subsection (1)(b) of this section and names the member's spouse or domestic partner as the survivor beneficiary.

(c) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spouse or domestic partner consent provisions of (a) of this subsection do not apply.

(3) No later than January 1, 2003, the department shall adopt rules that allow a member additional actuarially equivalent survivor benefit options, and shall include, but are not limited to:

(a)(i) A retired member who retired without designating a survivor beneficiary shall have the opportunity to designate their spouse or domestic partner from a postretirement marriage or domestic partnership as a survivor during a one-year period beginning one year after the date of the postretirement marriage or domestic partnership provided the retirement allowance payable to the retiree is not subject to periodic payments pursuant to a property division obligation as provided for in RCW 41.50.670.

(ii) A member who entered into a postretirement marriage or domestic partnership prior to the effective date of the rules adopted pursuant to this subsection and satisfies the conditions of (a)(i) of this subsection shall have one year to designate their spouse or domestic partner as a survivor beneficiary following the adoption of the rules.

(b) A retired member who elected to receive a reduced retirement allowance under this section and designated a nonspouse or a nondomestic partner as survivor beneficiary shall have the opportunity to remove the survivor designation and have their future benefit adjusted.

(c) The department may make an additional charge, if necessary, to ensure that the benefits provided under this subsection remain actuarially equivalent.

(4) No later than July 1, 2003, the department shall adopt rules to permit:

(a) A court-approved property settlement incident to a court decree of dissolution made before retirement to provide that benefits payable to a member who has completed at least five years of service and the member's divorcing spouse or former domestic partner be divided into two separate benefits payable over the life of each spouse or domestic partner.

The member shall have available the benefit options of subsection (1) of this section upon retirement, and if remarried or in a domestic partnership at the time of retirement remains subject to the spouse or domestic partner consent requirements of subsection (2) of this section. Any reductions of the member's benefit subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

The nonmember ex spouse or former domestic partner shall be eligible to commence receiving their separate benefit upon reaching the ages provided in RCW 43.43.250(2) and after filing a written application with the department.

(b) A court-approved property settlement incident to a court decree of dissolution made after retirement may only divide the benefit into two separate benefits payable over the life of each spouse or domestic partner if the nonmember ex spouse or former domestic partner was selected as a survivor beneficiary at retirement.

The retired member may later choose the survivor benefit options available in subsection (3) of this section. Any actuarial reductions subsequent to the division into two separate benefits shall be made solely to the separate benefit of the member.

Both the retired member and the nonmember divorced spouse or former domestic partner shall be eligible to commence receiving their separate benefits

upon filing a copy of the dissolution order with the department in accordance with RCW 41.50.670.

(c) The department may make an additional charge or adjustment if necessary to ensure that the separate benefits provided under this subsection are actuarially equivalent to the benefits payable prior to the decree of dissolution.

Passed by the House March 4, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 103

[House Bill 1426]

### CONSERVATION DISTRICTS--JOINT ENGINEERING ACTIVITIES

AN ACT Relating to cooperation between conservation districts; and amending RCW 89.08.220.

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

**Sec. 1.** RCW 89.08.220 and 1999 c 305 s 8 are each amended to read as follows:

A conservation district organized under the provisions of chapter 184, Laws of 1973 1st ex. sess. shall constitute a governmental subdivision of this state, and a public body corporate and politic exercising public powers, but shall not levy taxes or issue bonds and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of chapter 184, Laws of 1973 1st ex. sess.:

(1) To conduct surveys, investigations, and research relating to the conservation of renewable natural resources and the preventive and control measures and works of improvement needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures and works of improvement: PROVIDED, That in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct educational and demonstrational projects on any lands within the district upon obtaining the consent of the occupier of such lands and such necessary rights or interests in such lands as may be required in order to demonstrate by example the means, methods, measures, and works of improvement by which the conservation of renewable natural resources may be carried out;

(3) To carry out preventative and control measures and works of improvement for the conservation of renewable natural resources, within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of lands, and the measures listed in RCW 89.08.010, on any lands within the district upon obtaining the consent of the occupier of such lands and such necessary rights or interests in such lands as may be required;

(4) To cooperate or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid



to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of preventive and control measures and works of improvement for the conservation of renewable natural resources within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of chapter 184, Laws of 1973 1st ex. sess. For purposes of this subsection only, land occupiers who are also district supervisors are not subject to the provisions of RCW 42.23.030;

(5) To obtain options upon and to acquire in any manner, except by condemnation, by purchase, exchange, lease, gift, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of chapter 184, Laws of 1973 1st ex. sess.; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of chapter 184, Laws of 1973 1st ex. sess.;

(6) To make available, on such terms, as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, seedlings, and such other equipment and material as will assist them to carry on operations upon their lands for the conservation of renewable natural resources;

(7)(a) To prepare and keep current a comprehensive long-range program recommending the conservation of all the renewable natural resources of the district. Such programs shall be directed toward the best use of renewable natural resources and in a manner that will best meet the needs of the district and the state, taking into consideration, where appropriate, such uses as farming, grazing, timber supply, forest, parks, outdoor recreation, potable water supplies for urban and rural areas, water for agriculture, minimal flow, and industrial uses, watershed stabilization, control of soil erosion, retardation of water runoff, flood prevention and control, reservoirs and other water storage, restriction of developments of floodplains, protection of open space and scenery, preservation of natural beauty, protection of fish and wildlife, preservation of wilderness areas and wild rivers, the prevention or reduction of sedimentation and other pollution in rivers and other waters, and such location of highways, schools, housing developments, industries, airports and other facilities and structures as will fit the needs of the state and be consistent with the best uses of the renewable natural resources of the state. The program shall include an inventory of all renewable natural resources in the district, a compilation of current resource needs, projections of future resource requirements, priorities for various resource activities, projected timetables, descriptions of available alternatives, and provisions for coordination with other resource programs.

(b) The district shall also prepare an annual work plan, which shall describe the action programs, services, facilities, materials, working arrangements and estimated funds needed to carry out the parts of the long-range programs that are of the highest priorities.

(c) The districts shall hold public hearings at appropriate times in connection with the preparation of programs and plans, shall give careful consideration to the views expressed and problems revealed in hearings, and shall keep the public informed concerning their programs, plans, and activities. Occupiers of land shall be invited to submit proposals for consideration to such

hearings. The districts may supplement such hearings with meetings, referenda and other suitable means to determine the wishes of interested parties and the general public in regard to current and proposed plans and programs of a district. They shall confer with public and private agencies, individually and in groups, to give and obtain information and understanding of the impact of district operations upon agriculture, forestry, water supply and quality, flood control, particular industries, commercial concerns and other public and private interests, both rural and urban.

(d) Each district shall submit to the commission its proposed long-range program and annual work plans for review and comment.

(e) The long-range renewable natural resource program, together with the supplemental annual work plans, developed by each district under the foregoing procedures shall have official status as the authorized program of the district, and it shall be published by the districts as its "renewable resources program". Copies shall be made available by the districts to the appropriate counties, municipalities, special purpose districts and state agencies, and shall be made available in convenient places for examination by public land occupier or private interest concerned. Summaries of the program and selected material therefrom shall be distributed as widely as feasible for public information;

(8) To administer any project or program concerned with the conservation of renewable natural resources located within its boundaries undertaken by any federal, state, or other public agency by entering into a contract or other appropriate administrative arrangement with any agency administering such project or program;

(9) Cooperate with other districts organized under chapter 184, Laws of 1973 1st ex. sess. in the exercise of any of its powers;

(10) To accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other source, and to use or expend such moneys, services, materials, or any contributions in carrying out the purposes of chapter 184, Laws 1973 1st ex. sess.;

(11) To sue and be sued in the name of the district; to have a seal which shall be judicially noticed; have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to borrow money and to pledge, mortgage and assign the income of the district and its real or personal property therefor; and to make, amend rules and regulations not inconsistent with chapter 184, Laws of 1973 1st ex. sess. and to carry into effect its purposes;

(12)(a) Any two or more districts may engage in joint activities by agreement between or among them (~~((#))~~) including, but not limited to, planning, financing, engineering, constructing, operating, maintaining, and administering any program or project concerned with the conservation of renewable natural resources. The districts concerned may make available for purposes of the agreement any funds, property, personnel, professional engineering, equipment, or services available to them under chapter 184, Laws of 1973 1st ex. sess. (~~((÷))~~)

(b) Any district may enter into such agreements with a district or districts in adjoining states to carry out such purposes if the law in such other states permits the districts in such states to enter into such agreements.

(c) The commission shall have authority to propose, guide, and facilitate the establishment and carrying out of any such agreement;

(13) Every district shall, through public hearings, annual meetings, publications, or other means, keep the general public, agencies and occupiers of land within the district, informed of the works and activities planned and administered by the district, of the purposes these will serve, of the income and expenditures of the district, of the funds borrowed by the district and the purposes for which such funds are expended, and of the results achieved annually by the district; and

(14) The supervisors of conservation districts may designate an area, state, and national association of conservation districts as a coordinating agency in the execution of the duties imposed by this chapter, and to make gifts in the form of dues, quotas, or otherwise to such associations for costs of services rendered, and may support and attend such meetings as may be required to promote and perfect the organization and to effect its purposes.

Passed by the House March 7, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 104

[House Bill 1432]

### HOSPITAL PRIVILEGES--ADVANCED REGISTERED NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS

AN ACT Relating to hospital privileges for advanced registered nurse practitioners and physician assistants; and amending RCW 70.41.230.

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

**Sec. 1.** RCW 70.41.230 and 2016 c 68 s 6 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, prior to granting or renewing clinical privileges or association of any physician, physician assistant, or advanced registered nurse practitioner or hiring a physician, physician assistant, or advanced registered nurse practitioner who will provide clinical care under his or her license, a hospital or facility approved pursuant to this chapter shall request from the physician, physician assistant, or advanced registered nurse practitioner and the physician, physician assistant, or advanced registered nurse practitioner shall provide the following information:

(a) The name of any hospital or facility with or at which the physician, physician assistant, or advanced registered nurse practitioner had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician, physician assistant, or advanced registered nurse practitioner shall use his or her best efforts to comply with such a request for additional information;

(b) Whether the physician, physician assistant, or advanced registered nurse practitioner has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on

probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

- (i) License to practice any profession in any jurisdiction;
- (ii) Other professional registration or certification in any jurisdiction;
- (iii) Specialty or subspecialty board certification;
- (iv) Membership on any hospital medical staff;
- (v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;
- (vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;
- (vii) Professional society membership or fellowship;
- (viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;
- (ix) Academic appointment;
- (x) Authority to prescribe controlled substances (drug enforcement agency or other authority);

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician, physician assistant, or advanced registered nurse practitioner deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician, physician assistant, or advanced registered nurse practitioner deems appropriate;

(e) A waiver by the physician, physician assistant, or advanced registered nurse practitioner of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician, physician assistant, or advanced registered nurse practitioner that the information provided by the physician, physician assistant, or advanced registered nurse practitioner is accurate and complete.

(2) Except as provided in subsection (3) of this section, prior to granting privileges or association to any physician, physician assistant, or advanced registered nurse practitioner or hiring a physician, physician assistant, or advanced registered nurse practitioner who will provide clinical care under his or her license, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician, physician assistant, or advanced registered nurse practitioner had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician, physician assistant, or advanced registered nurse practitioner:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) In lieu of the requirements of subsections (1) and (2) of this section, when granting or renewing privileges or association of any physician, physician assistant, or advanced registered nurse practitioner providing telemedicine or store and forward services, an originating site hospital may rely on a distant site hospital's decision to grant or renew clinical privileges or association of the physician, physician assistant, or advanced registered nurse practitioner if the originating site hospital obtains reasonable assurances, through a written agreement with the distant site hospital, that all of the following provisions are met:

(a) The distant site hospital providing the telemedicine or store and forward services is a medicare participating hospital;

(b) Any physician, physician assistant, or advanced registered nurse practitioner providing telemedicine or store and forward services at the distant site hospital will be fully privileged to provide such services by the distant site hospital;

(c) Any physician, physician assistant, or advanced registered nurse practitioner providing telemedicine or store and forward services will hold and maintain a valid license to perform such services issued or recognized by the state of Washington; and

(d) With respect to any distant site physician, physician assistant, or advanced registered nurse practitioner who holds current privileges at the originating site hospital whose patients are receiving the telemedicine or store and forward services, the originating site hospital has evidence of an internal review of the distant site physician's, physician assistant's, or advanced registered nurse practitioner's performance of these privileges and sends the distant site hospital such performance information for use in the periodic appraisal of the distant site physician, physician assistant, or advanced registered nurse practitioner. At a minimum, this information must include all adverse events, as defined in RCW 70.56.010, that result from the telemedicine or store and forward services provided by the distant site physician, physician assistant, or advanced registered nurse practitioner to the originating site hospital's patients and all complaints the originating site hospital has received about the distant site physician, physician assistant, or advanced registered nurse practitioner.

(4)(a) The medical quality assurance commission or the board of osteopathic medicine and surgery shall be advised within thirty days of the name of any physician or physician assistant denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(b) The nursing care quality assurance commission shall be advised within thirty days of the name of any advanced registered nurse practitioner denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(5) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) through (3) of this section shall

provide such information concerning the physician, physician assistant, or advanced registered nurse practitioner in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(6) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(7) Hospitals shall be granted access to information held by the medical quality assurance commission (~~and~~), the board of osteopathic medicine and surgery, and the nursing care quality assurance commission pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(8) Violation of this section shall not be considered negligence per se.

Passed by the House March 8, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 105

[Engrossed Substitute House Bill 1440]

### LANDLORDS--NOTICE OF RENT INCREASES

AN ACT Relating to providing longer notice of rent increases; and amending RCW 59.18.140.

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

**Sec. 1.** RCW 59.18.140 and 2010 c 8 s 19022 are each amended to read as follows:

(1) The tenant shall conform to all reasonable obligations or restrictions, whether denominated by the landlord as rules, rental agreement, rent, or otherwise, concerning the use, occupation, and maintenance of his or her dwelling unit, appurtenances thereto, and the property of which the dwelling unit is a part if such obligations and restrictions are not in violation of any of the terms of this chapter and are not otherwise contrary to law, and if such obligations and restrictions are brought to the attention of the tenant at the time of his or her initial occupancy of the dwelling unit and thus become part of the rental agreement.

(2) Except for termination of tenancy and an increase in the amount of rent, after thirty days written notice to each affected tenant, a new rule of tenancy (~~((including a change in the amount of rent))~~) may become effective upon completion of the term of the rental agreement or sooner upon mutual consent.

(3)(a) Except as provided in (b) of this subsection, a landlord shall provide a minimum of sixty days' prior written notice of an increase in the amount of rent to each affected tenant, and any increase in the amount of rent may not become effective prior to the completion of the term of the rental agreement.

(b) If the rental agreement governs a subsidized tenancy where the amount of rent is based on the income of the tenant or circumstances specific to the subsidized household, a landlord shall provide a minimum of thirty days' prior written notice of an increase in the amount of rent to each affected tenant. An increase in the amount of rent may become effective upon completion of the term of the rental agreement or sooner upon mutual consent.

Passed by the House March 5, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 106

[Substitute House Bill 1469]

### EMERGENCY AND WORK ZONE VEHICLES--PASSING

AN ACT Relating to approaching emergency or work zones and tow truck operators; amending RCW 46.61.212; and prescribing penalties.

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

**Sec. 1.** RCW 46.61.212 and 2018 c 18 s 2 are each amended to read as follows:

(1) (~~The driver of any motor vehicle, upon approaching~~) An emergency or work zone(~~(, which)~~) is defined as the adjacent lanes of the roadway two hundred feet before and after:

(a) A stationary authorized emergency vehicle that is making use of audible and/or visual signals meeting the requirements of RCW 46.37.190(~~(;)~~);

(b) A tow truck that is making use of visual red lights meeting the requirements of RCW 46.37.196(~~(;)~~);

(c) Other vehicles providing roadside assistance that are making use of warning lights with three hundred sixty degree visibility(~~(;)~~);

(d) A police vehicle properly and lawfully displaying a flashing, blinking, or alternating emergency light or lights(~~(s)~~); or

(e) A stationary or slow moving highway construction vehicle, highway maintenance vehicle, solid waste vehicle, or utility service vehicle making use of flashing lights that meet the requirements of RCW 46.37.300 or warning lights with three hundred sixty degree visibility.

(2) The driver of any motor vehicle, upon approaching an emergency or work zone, shall:

~~((+))~~ (a) On a highway having four or more lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if ~~((reasonable))~~ the opportunity exists, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change or moving away from the lane or shoulder occupied by an emergency or work zone vehicle identified in subsection (1) of this section;

~~((+))~~ (b) On a highway having less than four lanes, proceed with caution, reduce the speed of the vehicle, and, if ~~((reasonable))~~ the opportunity exists, with due regard for safety and traffic conditions, and under the rules of this chapter, yield the right-of-way by passing to the left at a safe distance and simultaneously yield the right-of-way to all vehicles traveling in the proper direction upon the highway; or

~~((+))~~ (c) If changing lanes or moving away would be ~~((unreasonable or))~~ unsafe, proceed with due caution and reduce the speed of the vehicle to at least ten miles per hour below the posted speed limit.

~~((2))~~ (3) A person may not drive a vehicle in an emergency or work zone at a speed greater than the posted speed limit or greater than what is permitted under subsection (2)(c) of this section.

~~((3))~~ (4) A person found to be in violation of this section, or any infraction relating to speed restrictions in an emergency or work zone, must be assessed a monetary penalty equal to twice the penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended.

~~((4))~~ (5) A person who drives a vehicle in an emergency or work zone in such a manner as to endanger or be likely to endanger any emergency or work zone worker or property is guilty of reckless endangerment of emergency or work zone workers. A violation of this subsection is a gross misdemeanor punishable under chapter 9A.20 RCW.

~~((5))~~ (6) The department shall suspend for sixty days the driver's license, permit to drive, or nonresident driving privilege of a person convicted of reckless endangerment of emergency or work zone workers.

Passed by the House March 6, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 107

[Substitute House Bill 1485]

CHAPLAINS--RENAMING TO RELIGIOUS COORDINATORS

AN ACT Relating to the appointment of religious coordinators; and amending RCW 41.04.360, 72.01.210, 72.01.212, 72.01.220, 72.01.230, and 72.01.240.



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

**Sec. 1.** RCW 41.04.360 and 1982 c 190 s 1 are each amended to read as follows:

In the case of a minister or other clergyperson employed as a ~~((chaplain))~~ religious coordinator in a state institution or agency, there is designated in the salary or wage paid to the person an amount up to forty percent of the gross salary as either of the following:

(1) The rental value of a home furnished to the person as part of the person's compensation; or

(2) The housing/rental allowance paid to the person as part of the person's compensation, to the extent used by the person to rent or provide a home.

**Sec. 2.** RCW 72.01.210 and 2017 3rd sp.s. c 6 s 727 are each amended to read as follows:

(1) The secretary of corrections shall appoint institutional ~~((chaplains))~~ religious coordinators for the state correctional institutions for convicted felons. Institutional ~~((chaplains))~~ religious coordinators shall be appointed as employees of the department of corrections. The secretary of corrections may further contract with ~~((chaplains))~~ religious coordinators to be employed as is necessary to meet the religious needs of those inmates whose religious denominations are not represented by institutional ~~((chaplains))~~ religious coordinators and where volunteer ~~((chaplains))~~ religious coordinators are not available.

(2) Institutional ~~((chaplains))~~ religious coordinators appointed by the department of corrections under this section shall have qualifications necessary to ~~((function as religious program coordinators for))~~ serve all faith groups represented within the department. Every ~~((chaplain))~~ religious coordinator so appointed or contracted with shall have qualifications consistent with community standards of the given faith group to which ~~((the chaplain))~~ he or she belongs and shall not be required to violate the tenets of his or her faith when acting in an ecclesiastical role.

(3) The secretary of children, youth, and families shall appoint ~~((chaplains))~~ religious coordinators for the correctional institutions for juveniles found delinquent by the juvenile courts; and the secretary of corrections and the secretary of social and health services shall appoint one or more ~~((chaplains))~~ religious coordinators for other custodial, correctional, and mental institutions under their control.

(4) Except as provided in this section, the ~~((chaplains))~~ religious coordinators so appointed under this section shall have the qualifications and shall be compensated in an amount as recommended by the appointing department and approved by the Washington personnel resources board.

**Sec. 3.** RCW 72.01.212 and 2008 c 104 s 4 are each amended to read as follows:

Regardless of whether the services are voluntary or provided by employment or contract with the department of corrections, a ~~((chaplain))~~ religious coordinator who provides the services authorized by RCW 72.01.220:

(1) May not be compelled to carry personal liability insurance as a condition of providing those services; and

(2) May request that the attorney general authorize the defense of an action or proceeding for damages instituted against the ~~((chaplain))~~ religious

coordinator arising out of the course of his or her duties in accordance with RCW 4.92.060, 4.92.070, and 4.92.075.

**Sec. 4.** RCW 72.01.220 and 1959 c 28 s 72.01.220 are each amended to read as follows:

It shall be the duty of the ((~~chaplains~~)) religious coordinators at the respective institutions mentioned in RCW 72.01.210, under the direction of the department, to conduct religious services and to give religious and moral instruction to the inmates of the institutions, and to attend to their spiritual wants. They shall counsel with and interview the inmates concerning their social and family problems, and shall give assistance to the inmates and their families in regard to such problems.

**Sec. 5.** RCW 72.01.230 and 1959 c 28 s 72.01.230 are each amended to read as follows:

The ((~~chaplains~~)) religious coordinators at the respective institutions mentioned in RCW 72.01.210 shall be provided with the offices and chapels at their institutions, and such supplies as may be necessary for the carrying out of their duties.

**Sec. 6.** RCW 72.01.240 and 2012 c 117 s 448 are each amended to read as follows:

Each secretary is hereby empowered to appoint one of the ((~~chaplains~~)) religious coordinators, authorized by RCW 72.01.210, to act as supervisor of ((~~chaplains~~)) religious coordinators for his or her department, in addition to his or her duties at one of the institutions designated in RCW 72.01.210.

Passed by the House March 1, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 108

[House Bill 1490]

### HANFORD SITE WORKER OCCUPATIONAL DISEASE PRESUMPTION--MEDICAL EXAMINATION REQUIREMENT

AN ACT Relating to amending the application of the occupational disease presumption for cancer for Hanford site workers; and amending RCW 51.32.187.

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

**Sec. 1.** RCW 51.32.187 and 2018 c 9 s 1 are each amended to read as follows:

(1) The definitions in this section apply throughout this section.

(a) "Hanford nuclear site" and "Hanford site" and "site" means the approximately five hundred sixty square miles in southeastern Washington state, excluding leased land, state-owned lands, and lands owned by the Bonneville Power Administration, which is owned by the United States and which is commonly known as the Hanford reservation.

(b) "United States department of energy Hanford site workers" and "Hanford site worker" means any person, including a contractor or subcontractor, who was engaged in the performance of work, either directly or

indirectly, for the United States, regarding projects and contracts at the Hanford nuclear site and who worked on the site at the two hundred east, two hundred west, three hundred area, environmental restoration disposal facility site, central plateau, or the river corridor locations for at least one eight-hour shift while covered under this title.

(2)(a) For United States department of energy Hanford site workers, as defined in this section, who are covered under this title, there exists a prima facie presumption that the diseases and conditions listed in subsection (3) of this section are occupational diseases under RCW 51.08.140.

(b) This presumption of occupational disease may be rebutted by clear and convincing evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(3) The prima facie presumption applies to the following:

(a) Respiratory disease;

(b) Any heart problems, experienced within seventy-two hours of exposure to fumes, toxic substances, or chemicals at the site;

(c) Cancer, subject to subsection (4) of this section;

(d) Beryllium sensitization, and acute and chronic beryllium disease; and

(e) Neurological disease.

(4)(a) The presumption established for cancer only applies to any active or former United States department of energy Hanford site worker who has cancer that develops or manifests itself and who either was given a qualifying medical examination upon becoming a United States department of energy Hanford site worker that showed no evidence of cancer or was not given a qualifying medical examination because a qualifying medical examination was not required.

(b) The presumption applies to the following cancers:

(i) Leukemia;

(ii) Primary or secondary lung cancer, including bronchi and trachea, sarcoma of the lung, other than in situ lung cancer that is discovered during or after a postmortem examination, but not including mesothelioma or pleura cancer;

(iii) Primary or secondary bone cancer, including the bone form of solitary plasmacytoma, myelodysplastic syndrome, myelofibrosis with myeloid metaplasia, essential thrombocytosis or essential thrombocythemia, primary polycythemia vera (also called polycythemia rubra vera, P. vera, primary polycythemia, proliferative polycythemia, spent-phase polycythemia, or primary erythremia);

(iv) Primary or secondary renal (kidney) cancer;

(v) Lymphomas, other than Hodgkin's disease;

(vi) Waldenstrom's macroglobulinemia and mycosis fungoides; and

(vii) Primary cancer of the: (A) Thyroid; (B) male or female breast; (C) esophagus; (D) stomach; (E) pharynx, including all three areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The oropharynx includes base of tongue, soft palate and tonsils (the hypopharynx includes the pyriform sinus); (F) small intestine; (G) pancreas; (H) bile ducts, including ampulla of vater; (I) gall bladder; (J) salivary gland; (K) urinary bladder; (L) brain (malignancies only and not including intracranial endocrine glands and other parts of the central nervous system or borderline astrocytomas); (M) colon, including rectum

and appendix; (N) ovary, including fallopian tubes if both organs are involved; and (O) liver, except if cirrhosis or hepatitis B is indicated.

(5)(a) The presumption established in this section extends to an applicable United States department of energy Hanford site worker following termination of service for the lifetime of that individual.

(b) A worker or the survivor of a worker who has died as a result of one of the conditions or diseases listed in subsection (3) of this section, and whose claim was denied by order of the department, the board of industrial insurance appeals, or a court, can file a new claim for the same exposure and contended condition or disease.

(c) This section applies to decisions made after June 7, 2018, without regard to the date of last injurious exposure or claim filing.

(6)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim of benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party.

Passed by the House February 7, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 109

[Substitute House Bill 1512]

### TRANSPORTATION ELECTRIFICATION

AN ACT Relating to the electrification of transportation; amending RCW 80.28.360; adding a new section to chapter 35.92 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 80.28 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that:

(1) Programs for the electrification of transportation have the potential to allow electric utilities to optimize the use of electric grid infrastructure, improve the management of electric loads, and better manage the integration of variable renewable energy resources. Depending upon each utility's unique circumstances, electrification of transportation programs may provide cost-effective energy efficiency, through more efficient use of energy resources, and more efficient use of the electric delivery system. Electrification of transportation may result in cost savings and benefits for all ratepayers.

(2) State policy can achieve the greatest return on investment in reducing greenhouse gas emissions and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles. Potential benefits

associated with electrification of transportation include the monetization of environmental attributes associated with carbon reduction in the transportation sector.

(3) Legislative clarity is important for utilities to offer programs and services, including incentives, in the electrification of transportation for their customers. It is the intent of the legislature to achieve parity among all electric utilities, so each electric utility, depending on its unique circumstances, can determine its appropriate role in the development of electrification of transportation infrastructure.

**NEW SECTION. Sec. 2.** A new section is added to chapter 35.92 RCW to read as follows:

(1) The governing authority of an electric utility formed under this chapter may adopt an electrification of transportation plan that, at a minimum, establishes a finding that utility outreach and investment in the electrification of transportation infrastructure does not increase net costs to ratepayers in excess of one-quarter of one percent.

(2) In adopting an electrification of transportation plan under subsection (1) of this section, the governing authority may consider some or all of the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the utility's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) overall customer experience.

(3) An electric utility formed under this chapter may, upon making a determination in accordance with subsection (1) of this section, offer incentive programs in the electrification of transportation for its customers, including the promotion of electric vehicle adoption and advertising programs to promote the utility's services, incentives, or rebates.

**NEW SECTION. Sec. 3.** A new section is added to chapter 54.16 RCW to read as follows:

(1) The commission of a public utility district may adopt an electrification of transportation plan that, at a minimum, establishes a finding that outreach and investment in the electrification of transportation infrastructure does not increase net costs to ratepayers in excess of one-quarter of one percent.

(2) In adopting an electrification of transportation plan under subsection (1) of this section, the commission of a public utility district may consider some or all of the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the district's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; and (e) overall customer experience.

(3) A public utility district may, upon making a determination in accordance with subsection (1) of this section, offer incentive programs in the electrification of transportation for its customers, including the promotion of electric vehicle adoption and advertising programs to promote the district's services, incentives, or rebates.

**NEW SECTION. Sec. 4.** A new section is added to chapter 80.28 RCW to read as follows:

(1) An electric utility regulated by the utilities and transportation commission under this chapter may submit to the commission an electrification of transportation plan that deploys electric vehicle supply equipment or provides other electric transportation programs, services, or incentives to support electrification of transportation, provided that such electric vehicle supply equipment, programs, or services may not increase costs to customers in excess of one-quarter of one percent above the benefits of electric transportation to all customers over a period consistent with the utility's planning horizon under its most recent integrated resource plan.

(2) In reviewing an electrification of transportation plan under subsection (1) of this section, the commission may consider the following: (a) The applicability of multiple options for electrification of transportation across all customer classes; (b) the impact of electrification on the utility's load, and whether demand response or other load management opportunities, including direct load control and dynamic pricing, are operationally appropriate; (c) system reliability and distribution system efficiencies; (d) interoperability concerns, including the interoperability of hardware and software systems in electrification of transportation proposals; (e) the benefits and costs of the planned actions; and (f) the overall customer experience.

(3) The commission must issue an acknowledgment of an electrification of transportation plan within six months of the submittal of the plan. The commission may establish by rule the requirements for preparation and submission of an electrification of transportation plan. An electric utility may submit a plan under this section before or during rule-making proceedings.

**Sec. 5.** RCW 80.28.360 and 2015 c 220 s 2 are each amended to read as follows:

(1) In establishing rates for each electrical company regulated under this title, the commission may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for electric vehicle supply equipment that is deployed for the benefit of ratepayers, provided that the capital expenditures do not increase costs to ratepayers in excess of one-quarter of one percent. The commission must consider and may adopt other policies to improve access to and promote fair competition in the provision of electric vehicle supply equipment.

(2) An incentive rate of return on investment under this section may be allowed only if the company chooses to pursue capital investment in electric vehicle supply equipment on a fully regulated basis similar to other capital investments behind a customer's meter. In the case of an incentive rate of return on investment allowed under this section, an increment of up to two percent must be added to the rate of return on common equity allowed on the company's other investments.

(3) The incentive rate of return on investment authorized in subsection (2) of this section applies only to projects which have been installed after July 1, 2015(~~(, and which are reasonably expected, at the time they are placed in the rate base, to result in real and tangible benefits for ratepayers by being installed and located where electric vehicles are most likely to be parked for intervals longer than two hours))~~).

(4) The incentive rate of return on investment increment pursuant to this section may be earned only for a period up to the depreciable life of the electric vehicle supply equipment as defined in the depreciation schedules developed by the company and submitted to the commission for review. When the capital investment has fully depreciated, an electrical company may gift the electric vehicle supply equipment to the owner of the property on which it is located.

(5) By December 31, 2017, the commission must report to the appropriate committees of the legislature with regard to the use of any incentives allowed under this section, the quantifiable impacts of the incentives on actual electric vehicle deployment, and any recommendations to the legislature about utility participation in the electric vehicle market.

Passed by the House March 12, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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## CHAPTER 110

[Substitute House Bill 1532]

### TRAUMATIC BRAIN INJURY--DOMESTIC VIOLENCE

AN ACT Relating to traumatic brain injuries in domestic violence cases; amending RCW 10.99.030; and adding a new section to chapter 74.31 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 74.31 RCW to read as follows:

(1) The department, in consultation with the council and at least one representative of a community-based domestic violence program and one medical professional with experience treating survivors of domestic violence, shall develop recommendations to improve the statewide response to traumatic brain injuries suffered by domestic violence survivors. In developing recommendations, the department may consider the creation of an educational handout, to be updated on a periodic basis, regarding traumatic brain injury to be provided to victims of domestic violence. The handout may include the information and screening tool described in subsection (2) of this section.

(2)(a) The department, in consultation with the council, shall establish and recommend or develop content for a statewide web site for victims of domestic violence to include:

(i) An explanation of the potential for domestic abuse to lead to traumatic brain injury;

(ii) Information on recognizing cognitive, behavioral, and physical symptoms of traumatic brain injury as well as potential impacts to a person's emotional well-being and mental health;

- (iii) A self-screening tool for traumatic brain injury; and
  - (iv) Recommendations for persons with traumatic brain injury to help address or cope with the injury.
- (b) The department must update the web site created under this subsection on a periodic basis.

**Sec. 2.** RCW 10.99.030 and 2016 c 136 s 5 are each amended to read as follows:

(1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The criminal justice training commission shall implement by January 1, 1997, a course of instruction for the training of law enforcement officers in Washington in the handling of domestic violence complaints. The basic law enforcement curriculum of the criminal justice training commission shall include at least twenty hours of basic training instruction on the law enforcement response to domestic violence. The course of instruction, the learning and performance objectives, and the standards for the training shall be developed by the commission and focus on enforcing the criminal laws, safety of the victim, and holding the perpetrator accountable for the violence. The curriculum shall include training on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding to incidents that minimize the likelihood of officer injury and that promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance to and services for victims and children, understanding the risks of traumatic brain injury posed by domestic violence, verification and enforcement of court orders, liability, and any additional provisions that are necessary to carry out the intention of this subsection.

(3) The criminal justice training commission shall develop and update annually an in-service training program to familiarize law enforcement officers with the domestic violence laws. The program shall include techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of all parties. The commission shall make the training program available to all law enforcement agencies in the state.

(4) Development of the training in subsections (2) and (3) of this section shall be conducted in conjunction with agencies having a primary responsibility for serving victims of domestic violence with emergency shelter and other services, and representatives to the statewide organization providing training and education to these organizations and to the general public.

(5) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(6)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or



decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(7) When a peace officer responds to a domestic violence call(§);

(a) The officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; and (e) an order restraining your abuser from molesting or interfering with minor children in your custody. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four-hour toll-free hotline at (include appropriate phone number). The battered women's shelter and other resources in your area are . . . . (include local information)"; and

(b) The officer is encouraged to inform victims that information on traumatic brain injury can be found on the statewide web site developed under section 1 of this act.

(8) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(9) The law enforcement agency shall forward the offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation. Upon receiving the offense report, the prosecuting agency may, in its discretion, choose not to file the information as a domestic violence offense, if the offense was committed against a sibling, parent, stepparent, or grandparent.

(10) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidents of domestic violence reported to it.

(11) Records kept pursuant to subsections (6) and (10) of this section shall be made identifiable by means of a departmental code for domestic violence.

(12) Commencing January 1, 1994, records of incidents of domestic violence shall be submitted, in accordance with procedures described in this

subsection, to the Washington association of sheriffs and police chiefs by all law enforcement agencies. The Washington criminal justice training commission shall amend its contract for collection of statewide crime data with the Washington association of sheriffs and police chiefs:

(a) To include a table, in the annual report of crime in Washington produced by the Washington association of sheriffs and police chiefs pursuant to the contract, showing the total number of actual offenses and the number and percent of the offenses that are domestic violence incidents for the following crimes: (i) Criminal homicide, with subtotals for murder and nonnegligent homicide and manslaughter by negligence; (ii) forcible rape, with subtotals for rape by force and attempted forcible rape; (iii) robbery, with subtotals for firearm, knife or cutting instrument, or other dangerous weapon, and strongarm robbery; (iv) assault, with subtotals for firearm, knife or cutting instrument, other dangerous weapon, hands, feet, aggravated, and other nonaggravated assaults; (v) burglary, with subtotals for forcible entry, nonforcible unlawful entry, and attempted forcible entry; (vi) larceny theft, except motor vehicle theft; (vii) motor vehicle theft, with subtotals for autos, trucks and buses, and other vehicles; (viii) arson; and (ix) violations of the provisions of a protection order or no-contact order restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, provided that specific appropriations are subsequently made for the collection and compilation of data regarding violations of protection orders or no-contact orders;

(b) To require that the table shall continue to be prepared and contained in the annual report of crime in Washington until that time as comparable or more detailed information about domestic violence incidents is available through the Washington state incident based reporting system and the information is prepared and contained in the annual report of crime in Washington; and

(c) To require that, in consultation with interested persons, the Washington association of sheriffs and police chiefs prepare and disseminate procedures to all law enforcement agencies in the state as to how the agencies shall code and report domestic violence incidents to the Washington association of sheriffs and police chiefs.

Passed by the House March 6, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 111

[House Bill 1554]

### DENTAL HYGIENISTS--VARIOUS PROVISIONS

AN ACT Relating to dental hygienists; and amending RCW 18.29.056, 18.29.110, 18.29.190, and 18.29.220.

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

**Sec. 1.** RCW 18.29.056 and 2013 c 87 s 2 are each amended to read as follows:

(1)(a) Subject to RCW 18.29.230 and (e) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical

experience with a licensed dentist within the preceding five years may be employed, retained, or contracted by health care facilities and senior centers to perform authorized dental hygiene operations and services without dental supervision.

(b) Subject to RCW 18.29.230 and (e) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may perform authorized dental hygiene operations and services without dental supervision under a lease agreement with a health care facility or senior center.

(c) Dental hygienists performing operations and services under (a) or (b) of this subsection are limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, application of topical anesthetic agents, polishing and smoothing restorations, and performance of root planing and soft-tissue curettage, but shall not perform injections of anesthetic agents, administration of nitrous oxide, or diagnosis for dental treatment.

(d) The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities.

(e) A dental hygienist employed, retained, or contracted to perform services under this section or otherwise performing services under a lease agreement under this section in a senior center must, before providing services:

(i) Enter into a written practice arrangement plan, approved by the department, with a dentist licensed in this state, under which the dentist will provide off-site supervision of the dental services provided. This agreement does not create an obligation for the dentist to accept referrals of patients receiving services under the program; and

~~(ii) ((Collect data on the patients treated by dental hygienists under the program, including age, treatments rendered, insurance coverage, if any, and patient referral to dentists. This data must be submitted to the department of health at the end of each annual quarter, during the period of time between October 1, 2007, and October 1, 2013; and~~

~~(iii))~~ Obtain information from the patient's primary health care provider about any health conditions of the patient that would be relevant to the provision of preventive dental care. The information may be obtained by the dental hygienist's direct contact with the provider or through a written document from the provider that the patient presents to the dental hygienist.

(f) For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section:

(a) "Health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, individuals with disabilities, and juveniles; state-operated institutions under the jurisdiction of the department of social and health services or the department of corrections; and federal, state, and local public health facilities, state or federally funded community and migrant health centers, and tribal clinics.

(b) "Senior center" means a multipurpose community facility operated and maintained by a nonprofit organization or local government for the organization and provision of a combination of some of the following: Health, social,

nutritional, educational services, and recreational activities for persons sixty years of age or older.

**Sec. 2.** RCW 18.29.110 and 1991 c 3 s 51 are each amended to read as follows:

There shall be a dental hygiene examining committee consisting of ~~((three))~~ four practicing dental hygienists and one public member appointed by the secretary, to be known as the Washington dental hygiene examining committee. Each dental hygiene member shall be licensed and have been actively practicing dental hygiene for a period of not less than five years immediately before appointment and shall not be connected with any dental hygiene school. The public member shall not be connected with any dental hygiene program or engaged in any practice or business related to dental hygiene. Members of the committee shall be appointed by the secretary to prepare and conduct examinations for dental hygiene licensure. Members shall be appointed to serve for terms of three years from October 1 of the year in which they are appointed. Terms of the members shall be staggered. Each member shall hold office for the term of his or her appointment and until his or her successor is appointed and qualified. Any member of the committee may be removed by the secretary for neglect of duty, misconduct, malfeasance, or misfeasance in office, after being given a written statement of the charges against him or her and sufficient opportunity to be heard thereon. Members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 3.** RCW 18.29.190 and 2015 c 120 s 2 are each amended to read as follows:

(1) The department shall issue an initial limited license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state or Canadian province that allows a substantively equivalent scope of practice in subsection (3)(a) through (j) of this section;

(b) Is currently engaged in active practice in another state or Canadian province. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;

(c) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state or Canadian province;

(d) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(e) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs;

(f) Pays any required fees; and

(g) Meets requirements for AIDS education.

(2) The term of the initial limited license issued under this section is eighteen months and it is renewable upon:

(a) Demonstration of successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;

(b) Demonstration of successful passage of a substantively equivalent local anesthesia examination; ~~((and))~~

(c) Demonstration of didactic and clinical competency in the administration of nitrous oxide analgesia; and

(d) Demonstration of successful passage of an educational program on the administration of local anesthesia and nitrous oxide analgesia.

(3) A person practicing with an initial limited license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with an initial limited license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia. For purposes of the renewed limited license, this endorsement demonstrates the successful passage of the local anesthesia examination.

(c) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(d) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in administering nitrous oxide analgesia may receive a temporary endorsement to administer nitrous oxide analgesia.

(5)(a) A person practicing with a renewed limited license granted under this section may:

(i) Perform hygiene procedures as provided under subsection (3) of this section;

(ii) Give injections of local anesthetic;

(iii) Perform soft tissue curettage; and

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed limited license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration.

**Sec. 4.** RCW 18.29.220 and 2009 c 321 s 2 are each amended to read as follows:

For low-income, rural, and other at-risk populations and in coordination with local public health jurisdictions and local oral health coalitions, a dental hygienist licensed in this state may assess for and apply sealants and apply fluoride ((varnishes)), and may remove deposits and stains from the surfaces of teeth in community-based sealant programs carried out in schools:

(1) Without attending the department's school sealant endorsement program if the dental hygienist was licensed as of April 19, 2001; or

(2) If the dental hygienist is school sealant endorsed under RCW 43.70.650.

~~((A hygienist providing services under this section must collect data on patients treated, including age, treatment rendered, methods of reimbursement for treatment, evidence of coordination with local public health jurisdictions and local oral health coalitions, and patient referrals to dentists. This data must be submitted to the department of health at the end of each annual quarter, during the period of time between October 1, 2007, and October 1, 2013.))~~

Passed by the House March 4, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

## CHAPTER 112

[Engrossed House Bill 1563]

### LIQUOR PRIVILEGES--STUDENTS

AN ACT Relating to liquor-related privileges of students who are enrolled in certain degree programs; and amending RCW 66.20.010 and 66.44.318.

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

**Sec. 1.** RCW 66.20.010 and 2017 c 250 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor

without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 82.08.150, 66.24.290, and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030, a regional university, or a state university;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, sommelier, wine business, enology, viticulture, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; ~~(and)~~

(f) The enrolled student permitted to taste the alcoholic beverages conducts the tasting either: (i) On the premises of the college or university at which the student is enrolled; or (ii) while on a field trip to a grape-growing area or production facility so long as the enrolled student is accompanied by a faculty or staff member with a class 12 or 13 alcohol server permit who supervises as provided in (d) of this subsection and all other requirements of this subsection (12) are met; and

~~(g)~~ The permit fee for the special permit provided for in this subsection (12) must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premise of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its own production. The distillery or craft distillery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted for private banquet permits prior to the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No licensee may receive more than twelve permits under this subsection (13) each year;



(14) Where the application is for a special permit by a manufacturer of wine for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling wine of its own production. The winery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted at least ten days before the event and once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than twelve events per year may be held by a single manufacturer under this subsection;

(15) Where the application is for a special permit by a manufacturer of beer for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling beer of its own production. The brewery or microbrewery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted at least ten days before the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than twelve events per year may be held by a single manufacturer under this subsection;

(16) Where the application is for a special permit by an individual or business to sell a private collection of wine or spirits to an individual or business. The seller must obtain a permit at least five business days before the sale, for a fee of twenty-five dollars per sale. The seller must provide an inventory of products sold and the agreed price on a form provided by the board. The seller shall submit the report and taxes due to the board no later than twenty calendar days after the sale. A permit may be issued under this section to allow the sale of a private collection to licensees, but may not be issued to a licensee to sell to a private individual or business which is not otherwise authorized under the license held by the seller. If the liquor is purchased by a licensee, all sales are subject to taxes assessed as on liquor acquired from any other source. The board may adopt rules to implement this section;

(17)(a) A special permit, where the application is for a special permit by a nonprofit organization to sell wine through an auction, not open to the public, to be conducted at a specific place, upon a specific date, and to allow wine tastings at the auction of the wine to be auctioned.

(b) A permit holder under this subsection (17) may at the specified event:

(i) Sell wine by auction for off-premises consumption; and

(ii) Allow tastings of samples of the wine to be auctioned at the event.

(c) An application is required for a permit under this subsection (17). The application must be submitted prior to the event and once issued must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use.

(d) Wine from more than one winery may be sold at the auction; however, each winery selling wine at the auction must be listed on the permit application. Only a single application form may be required for each auction, regardless of the number of wineries that are selling wine at the auction. The total fee per event for a permit issued under this subsection (17) is twenty-five dollars multiplied by the number of wineries that are selling wine at the auction.

(e) For the purposes of this subsection (17), "nonprofit organization" means an entity incorporated as a nonprofit organization under Washington state law.

(f) The board may adopt rules to implement this section.

**Sec. 2.** RCW 66.44.318 and 2015 c 33 s 1 are each amended to read as follows:

(1) Except as provided in this section, nothing is construed to permit a nonretail class liquor licensee's employee or intern between the ages of eighteen and twenty-one years to handle, transport, or otherwise possess liquor.

(2) Licensees holding nonretail class liquor licenses are permitted to allow their employees between the ages of eighteen and twenty-one years to stock, merchandise, and handle liquor on or about the:

(a) Nonretail premises if there is an adult twenty-one years of age or older on duty supervising such activities on the premises; and

(b) Retail licensee's premises, except between 11:00 p.m. and 4:00 a.m., as long as there is an adult twenty-one years of age or older, employed by the retail licensee, and present at the retail licensee's premises during the activities described in this subsection (2).

(3) Any act or omission of the nonretail class liquor licensee's employee occurring at or about the retail licensee's premises, which violates any provision of this title, is the sole responsibility of the nonretail class liquor licensee.

(4) Nothing in this section absolves the retail licensee from responsibility for the acts or omissions of its own employees who violate any provision of this title.

(5)(a) Licensees holding a domestic winery license are permitted to allow their interns who are between the ages of eighteen and twenty-one years old to engage in wine-production related work at the domestic winery's licensed location, so long as the intern is enrolled as a student:

(i) At a community or technical college, regional university, or state university with a special permit issued in accordance with RCW 66.20.010; and

(ii) In a required or elective class as part of a degree program identified in RCW 66.20.010(12)(b).

(b) Any act or omission of the domestic winery's intern occurring at or about the domestic winery's premises, which violates any provision of this title, is the sole responsibility of the domestic winery.

Passed by the House March 1, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 23, 2019.

Filed in Office of Secretary of State April 24, 2019.

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**CHAPTER 113**

[Engrossed Substitute House Bill 1355]

**COMMUNITY AND TECHNICAL COLLEGE COUNSELORS--TASK FORCE**

AN ACT Relating to establishing staffing standards and ratios for counselors in community and technical colleges; creating a new section; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** (1) A task force on community and technical college counselors is created to examine issues related to staffing ratios and standards of counselors in the community and technical college system.

(2) The members of the task force are as provided in this subsection.

(a) The president of the senate shall appoint two members from each of the two largest caucuses in the senate.

(b) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(c) The president of the senate and the speaker of the house of representatives shall jointly appoint the following members:

(i) Four counselors employed by community and technical colleges. At least two of the counselors must be members of the exclusive bargaining representatives that represent counselors; and

(ii) One student of a community and technical college.

(d) The governor shall appoint the following members:

(i) One member representing the state board for community and technical colleges;

(ii) Two presidents from two community and technical colleges, or the presidents' designees who have authority to speak on behalf of the colleges; and

(iii) Two vice presidents from two community and technical colleges. One must be a vice president of student services and one must be a vice president of instruction.

(3) The task force shall choose cochaIRS from among its legislative membership and may rotate cochaIRS from each chamber and each caucus.

(4) The task force shall examine the following issues:

(a) Minimum standards required for counselors, including requirements regarding the level of education, internship experience, practical experience, and content of coursework required;

(b) Best practices for counseling services in the community and technical college system and how the colleges will meet the mental health needs of students and qualified staff members;

(c) Staffing ratios of counselors and students, including considering issues raised by a staffing ratio of no more than nine hundred students to one full-time equivalent counselor; and

(d) Whether legislation is needed to address the issues outlined in this subsection.

(5) Staff support for the task force shall be provided by the state board for community and technical colleges.

(6) The task force shall submit its findings and recommendations to the appropriate committees of the legislature by November 1, 2020. The findings must include data on each community and technical college's student-to-counselor ratio.

(7) This section expires December 1, 2020.

Passed by the House March 6, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

**CHAPTER 114**

[House Bill 1382]

**PROSTITUTION--EMERGENCY ASSISTANCE--CRIMINAL IMMUNITY**

AN ACT Relating to increasing access to emergency assistance for victims by providing immunity from prosecution for prostitution offenses in some circumstances; and adding a new section to chapter 9A.88 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.88 RCW to read as follows:

(1) A person acting in good faith who seeks emergency assistance for a victim of an offense included in subsection (4) of this section may not be charged or prosecuted for prostitution under RCW 9A.88.030, or an equivalent municipal ordinance, if the evidence for the charge of prostitution was obtained as a result of the person seeking emergency assistance.

(2) A person who is a victim of an offense included in subsection (4) of this section and is seeking emergency assistance on account of the offense may not be charged or prosecuted for prostitution under RCW 9A.88.030, or an equivalent municipal ordinance, if the evidence for the charge of prostitution was obtained as a result of the need for emergency assistance.

(3) The protection in this section from prosecution for prostitution is not grounds for suppression of evidence in other criminal charges.

(4) A victim of one of the following offenses, or a person seeking emergency assistance on his or her behalf, qualifies for immunity from prostitution charges as provided in subsections (1) and (2) of this section:

- (a) Any violent offense as defined in RCW 9.94A.030;
- (b) Assault in the third degree under RCW 9A.36.031;
- (c) Assault in the fourth degree under RCW 9A.36.041, or an equivalent municipal ordinance;
- (d) Rape in the third degree under RCW 9A.44.060.

Passed by the House March 6, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

**CHAPTER 115**

[House Bill 1429]

**DAIRY MILK ASSESSMENT FEE--EXTENSION**

AN ACT Relating to extending the dairy milk assessment fee to June 30, 2025; amending RCW 15.36.551; and providing an expiration date.

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

**Sec. 1.** RCW 15.36.551 and 2015 1st sp.s. c 5 s 1 are each amended to read as follows:

There is levied on all milk processed in this state an assessment not to exceed fifty-four one-hundredths of one cent per hundredweight. The director shall determine, by rule, an assessment, that with contribution from the general fund, will support an inspection program to maintain compliance with the provisions of the pasteurized milk ordinance of the national conference on

interstate milk shipment. All assessments shall be levied on the operator of the first milk processing plant receiving the milk for processing. This shall include milk processing plants that produce their own milk for processing and milk processing plants that receive milk from other sources. Milk processing plants whose monthly assessment for receipt of milk totals less than twenty dollars in any given month are exempted from paying this assessment for that month. All moneys collected under this section shall be paid to the director by the twentieth day of the succeeding month for the previous month's assessments. The director shall deposit the funds into the dairy inspection account hereby created within the agricultural local fund established in RCW 43.23.230. The funds shall be used only to provide inspection services to the dairy industry. If the operator of a milk processing plant fails to remit any assessments, that sum shall be a lien on any property owned by him or her, and shall be reported by the director and collected in the manner and with the same priority over other creditors as prescribed for the collection of delinquent taxes under chapters 84.60 and 84.64 RCW.

This section expires June 30, (~~2020~~) 2025.

Passed by the House March 4, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 116

[House Bill 1534]

### MEDICAID PSYCHIATRIC PER DIEM PAYMENTS--CERTAIN HOSPITALS

AN ACT Relating to psychiatric payments under medical assistance programs for certain rural hospitals that are not designated as critical access hospitals, do not participate in the certified public expenditure program, have less than fifty acute care beds, and have combined medicare and medicaid inpatient days greater than fifty percent of total days; creating a new section; providing an expiration date; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** (1) Psychiatric per diem payments for recipients eligible for medical assistance programs under chapter 74.09 RCW for services provided by a hospital, regardless of the beneficiary's managed care enrollment status, must be increased on or after the effective date of this section, sufficiently to ensure that services are provided. Increased psychiatric per diem payments under this section are effective from the effective date of this section through June 30, 2019, and apply only when services are provided by a hospital that:

- (a) Is designated as a rural hospital by the department of health;
- (b) Has less than fifty staffed acute care beds, as reported in the hospital's 2017 department of health year-end report;
- (c) Is not currently designated as a critical access hospital, and does not meet current federal eligibility requirements for designation as a critical access hospital;
- (d) Is not currently participating in the certified public expenditure full cost reimbursement program; and
- (e) Has combined medicare and medicaid inpatient days greater than fifty percent of total days, as reported in the hospital's 2017 cost report.

(2) This section expires June 30, 2019.

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

Passed by the House March 1, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

**CHAPTER 117**

[House Bill 1568]

**PORT DISTRICT ECONOMIC DEVELOPMENT PROGRAMS--VARIOUS PROVISIONS**

AN ACT Relating to port district worker development and occupational training programs; and amending RCW 53.08.245.

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

**Sec. 1.** RCW 53.08.245 and 2010 c 195 s 1 are each amended to read as follows:

(1) It shall be in the public purpose for all port districts to engage in economic development programs. In addition, port districts may contract with nonprofit corporations and private and public entities that provide training systems as defined in RCW 28C.18.010 and promote workforce diversity in furtherance of this and other acts relating to economic development.

(2)(a) Economic development programs may include ~~((those programs for))~~: Occupational job training and placement, job advancement and job retention, preapprenticeship training, or ((educational)) occupational education programs associated with port tenants, customers, and local economic development related to port tenants or port-related economic activities that are sponsored by a port~~((;))~~ and operated by a nonprofit, private, or public entity ~~((and are in existence on June 10, 2010))~~.

(b) Ports seeking to engage in activities or contracts pursuant to this subsection shall, by resolution, declare that port-related workforce development provides a substantial public benefit consistent with the port commission's economic development goals, and is consistent with ongoing worker training initiatives in place in the port district.

(c) As a contract condition, a sponsoring port must require any ~~((nonprofit))~~ entity that operates programs such as those described in (a) of this subsection to submit annually quantitative information on program outcomes including: The number of workers trained, recruited, ~~((and))~~ placed in jobs, and retained; the types of jobs and range of compensation; the number and types of businesses that are served; and any other tangible benefits realized by the port, the workers, businesses, and the public.

Passed by the House March 1, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 118

[Engrossed House Bill 1584]

## REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS--MEMBERSHIP OF TRIBES

AN ACT Relating to restricting the availability of state funds to regional transportation planning organizations that do not provide a reasonable opportunity for voting membership to certain federally recognized tribes; amending RCW 47.80.050; and providing an effective date.

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

**Sec. 1.** RCW 47.80.050 and 1990 1st ex.s. c 17 s 57 are each amended to read as follows:

(1) Biennial appropriations to the department of transportation to carry out the regional transportation planning program shall set forth the amounts to be allocated as follows:

~~((1))~~ (a) A base amount per county for each county within each regional transportation planning organization, to be distributed to the lead planning agency;

~~((2))~~ (b) An amount to be distributed to each lead planning agency on a per capita basis; and

~~((3))~~ (c) An amount to be administered by the department of transportation as a discretionary grant program for special regional planning projects, including grants to allow counties which have significant transportation interests in common with an adjoining region to also participate in that region's planning efforts.

(2) In order for a regional transportation planning organization to be eligible to receive state funds that are appropriated for regional transportation planning organizations, a regional transportation planning organization must provide a reasonable opportunity for voting membership to federally recognized tribes that hold reservation or trust lands within the planning area of the regional transportation planning organization. Any federally recognized tribe that holds reservation or trust land within the planning area of a regional transportation planning organization and does not have voting membership in the regional transportation planning organization must be offered voting membership in the regional transportation planning organization every two years or when the composition of the board of the regional transportation planning organization is modified in an interlocal agreement.

NEW SECTION. Sec. 2. This act takes effect August 1, 2019.

Passed by the House March 7, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 119

[Substitute House Bill 1594]

## ELECTRICAL INSTALLATIONS--CERTAIN UTILITY WIRES AND EQUIPMENT

AN ACT Relating to clarifying the exemption for wiring and equipment associated with telecommunication installations; and amending RCW 19.28.010.

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

**Sec. 1.** RCW 19.28.010 and 2018 c 240 s 1 are each amended to read as follows:

(1) All wires and equipment, and installations thereof, that convey electric current and installations of equipment to be operated by electric current, in, on, or about buildings or structures, except for telephone, telegraph, radio, and television wires and equipment, and television antenna installations, signal strength amplifiers, and coaxial installations pertaining thereto shall be in strict conformity with this chapter, the statutes of the state of Washington, and the rules issued by the department, and shall be in conformity with approved methods of construction for safety to life and property. The following are exempt from the requirements of this chapter: All wires and equipment that fall within section 90.2(b)(5) of the National Electrical Code, 1981 edition (~~(-are exempt from the requirements of this chapter)~~); all wires and equipment within the communication worker safety zone and supply space, as defined in the National Electrical Safety Code, on poles supporting electric utility transmission or distribution lines or wires; and electric utility-owned equipment between a meter base and meter. The regulations and articles in the National Electrical Code, the National Electrical Safety Code, and other installation and safety regulations approved by the national fire protection association, as modified or supplemented by rules issued by the department in furtherance of safety to life and property under authority hereby granted, shall be prima facie evidence of the approved methods of construction. All materials, devices, appliances, and equipment used in such installations shall be of a type that conforms to applicable standards or be indicated as acceptable by the established standards of any electrical product testing laboratory which is accredited by the department. Industrial control panels, utilization equipment, and their components do not need to be listed, labeled, or otherwise indicated as acceptable by an accredited electrical product testing laboratory unless specifically required by the National Electrical Code, 1993 edition.

(2) Residential buildings or structures moved into or within a county, city, or town are not required to comply with all of the requirements of this chapter, if the original occupancy classification of the building or structure is not changed as a result of the move. This subsection shall not apply to residential buildings or structures that are substantially remodeled or rehabilitated.

(3) This chapter shall not limit the authority or power of any city or town to enact and enforce under authority given by law, any ordinance, rule, or regulation requiring an equal, higher, or better standard of construction and an equal, higher, or better standard of materials, devices, appliances, and equipment than that required by this chapter. A city or town shall require that its electrical inspectors meet the qualifications provided for state electrical inspectors in accordance with RCW 19.28.321. In a city or town having an equal, higher, or better standard the installations, materials, devices, appliances, and equipment shall be in accordance with the ordinance, rule, or regulation of the city or town.

(4) Incorporated cities and towns where electrical inspections are required by local ordinances may enforce the provisions of RCW 19.28.041(1), 19.28.161, 19.28.271(1), 19.28.420(1), and applicable licensing and certification rules within their respective jurisdictions. Nothing in this subsection diminishes the authority of the department to enforce the provisions of RCW 19.28.041(1),



19.28.161, 19.28.271(1), 19.28.420(1), and applicable licensing and certification rules within any city or town.

(5) Electrical equipment associated with spas, hot tubs, swimming pools, and hydromassage bathtubs shall not be offered for sale or exchange unless the electrical equipment is certified as being in compliance with the applicable product safety standard by bearing the certification mark of an approved electrical products testing laboratory.

(6) Nothing in this chapter may be construed as permitting the connection of any conductor of any electric circuit with a pipe that is connected with or designed to be connected with a waterworks piping system, without the consent of the person or persons legally responsible for the operation and maintenance of the waterworks piping system.

Passed by the House March 7, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 120

[Substitute House Bill 1605]

### TRAUMATIC BRAIN INJURY SCREENINGS--FOSTER CARE SYSTEM

AN ACT Relating to requiring traumatic brain injury screenings for children entering the foster care system; adding a new section to chapter 74.13 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 74.13 RCW to read as follows:

(1) The department, in consultation with the health plan contracted to provide health care coverage to foster youth, shall evaluate:

(a) Traumatic brain injury screening tools that could be used with children entering out-of-home care as defined under RCW 13.34.030 and the evidence base for such tools;

(b) Options to include traumatic brain injury screening tools in existing screens or regular health care appointments for children in out-of-home care as defined under RCW 13.34.030; and

(c) The recommended treatment actions based on health care, behavioral health care, and trauma-related best practices for youth for whom a potential traumatic brain injury is identified using a screening tool.

(2) By December 1, 2019, and in compliance with RCW 43.01.036, the department shall provide a report based on the requirements in this section to the appropriate committees of the legislature.

(3) This section expires July 1, 2020.

Passed by the House March 5, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 121

[Substitute House Bill 1621]

## TEACHER PREPARATION PROGRAMS--BASIC SKILLS ASSESSMENT

AN ACT Relating to basic skills assessments for approved teacher preparation programs; and amending RCW 28A.410.220.

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

**Sec. 1.** RCW 28A.410.220 and 2013 c 193 s 2 are each amended to read as follows:

(1)(a) ~~((Beginning not later than September 1, 2001,))~~ The Washington professional educator standards board shall make available ((and pilot)) a means of assessing an applicant's knowledge in the basic skills. For the purposes of this section, "basic skills" means the subjects of at least reading, writing, and mathematics. ((Beginning September 1, 2002, except as provided in (c) and (d) of this subsection and subsection (4) of this section, passing)) An applicant must take this basic skills assessment ((shall be required)), or an alternative or equivalent basic skills assessment as determined by the Washington professional educator standards board, and report the individual results to the Washington professional educator standards board and an approved teacher preparation program, for admission to the approved teacher preparation program((s and for persons from out of state applying for a Washington state residency teaching certificate)).

(b) ~~((On))~~ An ((individual student basis,)) approved teacher preparation program((s)) may ((admit into their programs a candidate who has not achieved the minimum basic skills assessment score established)) use the results of the basic skills assessment, or an alternative or equivalent basic skills assessment as determined by the Washington professional educator standards board, as a formative assessment of academic strengths and weakness in determining the candidate's readiness for the program. ((Individuals so admitted may not receive residency certification without passing the basic skills assessment under this section.))

(c) The Washington professional educator standards board may establish criteria to ensure that persons from out-of-state who are applying for residency certification and persons applying to master's degree level teacher preparation programs can demonstrate to the board's satisfaction that they have the requisite basic skills ~~((based upon having completed another basic skills assessment acceptable to the Washington professional educator standards board or by some other alternative approved by the Washington professional educator standards board)).~~

(d) The Washington professional educator standards board may identify and accept other tests and test scores as long as the tests are comparable in rigor to the basic skills assessment and candidates meet or exceed the basic skills requirements established by the board. ~~((The board must set the acceptable score for admission to teacher certification programs at no lower than the average national scores for the SAT or ACT.))~~

(2) The Washington professional educator standards board shall set performance standards and develop, pilot, and implement a uniform and externally administered professional-level certification assessment based on demonstrated teaching skill. In the development of this assessment,

consideration shall be given to changes in professional certification program components such as the culminating seminar.

(3) Beginning not later than September 1, 2002, the Washington professional educator standards board shall provide for the initial piloting and implementation of a means of assessing an applicant's knowledge in the subjects for which the applicant has applied for an endorsement to his or her residency or professional teaching certificate. The assessment of subject knowledge shall not include instructional methodology. Beginning September 1, 2005, passing this assessment shall be required to receive an endorsement for certification purposes.

(4) The Washington professional educator standards board may permit exceptions from the assessment requirements under subsections (1), (2), and (3) of this section on a case-by-case basis.

(5) The Washington professional educator standards board shall provide for reasonable accommodations for individuals who are required to take the assessments in subsection (1), (2), or (3) of this section if the individuals have learning or other disabilities.

(6) With the exception of applicants exempt from the requirements of subsections ((1+;)) (2)((;)) and (3) of this section, an applicant must achieve a minimum assessment score or scores established by the Washington professional educator standards board on each of the assessments under subsections ((1+;)) (2)((;)) and (3) of this section.

(7) The Washington professional educator standards board and superintendent of public instruction, as determined by the Washington professional educator standards board, may contract with one or more third parties for:

(a) The development, purchase, administration, scoring, and reporting of scores of the assessments established by the Washington professional educator standards board under subsections (1), (2), and (3) of this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes in this subsection.

(8) Applicants for admission to a Washington teacher preparation program and applicants for residency and professional certificates who are required to successfully complete one or more of the assessments under subsections (1), (2), and (3) of this section, and who are charged a fee for the assessment by a third party contracted with under subsection (7) of this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

(9) The superintendent of public instruction is responsible for supervision and providing support services to administer this section.

(10) The Washington professional educator standards board shall collaboratively select or develop and implement the applicable assessments and minimum assessment scores required under this section with the superintendent of public instruction and shall provide opportunities for representatives of other interested educational organizations to participate in the selection or development and implementation of such assessments in a manner deemed appropriate by the Washington professional educator standards board.

(11) The Washington professional educator standards board shall adopt rules under chapter 34.05 RCW that are reasonably necessary for the effective and efficient implementation of this section.

Passed by the House March 6, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 122

[Engrossed Substitute House Bill 1643]

### ADDRESS CONFIDENTIALITY PROGRAM--PROPERTY OWNERSHIP--LEGAL AID

AN ACT Relating to property ownership for participants in the address confidentiality program; amending RCW 40.24.010; and adding a new section to chapter 40.24 RCW.

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

**Sec. 1.** RCW 40.24.010 and 2008 c 312 s 1 are each amended to read as follows:

The legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, trafficking, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this chapter is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic violence, sexual assault, trafficking, or stalking, to enable interagency cooperation with the secretary of state in providing address confidentiality for victims of domestic violence, sexual assault, trafficking, or stalking, and to enable state and local agencies to accept a program participant's use of an address designated by the secretary of state as a substitute mailing address. The legislature further intends to provide assistance to program participants who own or desire to own property in the state to protect such ownership from public disclosure.

**NEW SECTION. Sec. 2.** A new section is added to chapter 40.24 RCW to read as follows:

The secretary of state shall enter into an interagency agreement with the office of civil legal aid to develop and make available information, online self-help resources, and other legal aid services to help participants to own property in the state without public disclosure of such ownership. These resources must also include information to help participants purchase property in the name of a nonprofit organization or corporation, without public disclosure of ownership, in order to establish a safe house for other participants or for sex trafficking victims. The secretary of state and the state and local agencies and nonprofit agencies designated by the secretary of state under RCW 40.24.080 shall publicize the availability of legal resources and assistance under this section to program participants and applicants. The secretary of state may not provide direct legal resources and assistance to participants. No fee may be charged to the participants for legal assistance under this section. This section creates no individual right to legal assistance or representation in litigation at public expense.

Passed by the House March 6, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 123

[House Bill 1647]

### MARINE PILOT REST PERIODS

AN ACT Relating to mandatory rest periods for pilots; and amending RCW 88.16.103.

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

**Sec. 1.** RCW 88.16.103 and 2008 c 128 s 7 are each amended to read as follows:

(1) Pilots ~~((and pilot trainees, after completion of an assignment or assignments which are seven hours or longer in duration,))~~ shall ~~((receive))~~ have a mandatory rest period of ((seven)) at least ten hours with an opportunity for eight hours of uninterrupted sleep after completion of an assignment; excluding multiple assignments within a harbor area, as defined by the board of pilotage commissioners, provided the combined total duration of assignment time does not exceed thirteen hours.

(2) Pilots shall have a mandatory rest period that mitigates fatigue caused by circadian misalignment after three consecutive night assignments, as defined by the board of pilotage commissioners.

(3) A pilot ~~((or pilot trainee))~~ shall refuse a pilotage assignment if the pilot ~~((or pilot trainee))~~ is physically or mentally fatigued or if the pilot ~~((or pilot trainee))~~ has a reasonable belief that the assignment cannot be carried out in a competent and safe manner. Upon refusing an assignment under this subsection, a pilot ~~((or pilot trainee))~~ shall submit a written explanation to the board within forty-eight hours. ~~((If the board finds that the pilot's or pilot trainee's written explanation is without merit, or reasonable cause did not exist for the assignment refusal, such pilot or pilot trainee may be subject to the provisions of RCW 88.16.100.~~

~~(3))~~ (4) A pilot trainee shall not take a training program trip if the pilot trainee is physically or mentally fatigued or if the pilot trainee has reasonable belief that the training program trip cannot be carried out in a competent and safe manner.

(5) The board shall quarterly review the dispatch records of pilot organizations or pilot's quarterly reports to ensure the provisions of this section are enforced. The board may prescribe rules for rest periods pursuant to chapter 34.05 RCW.

Passed by the House March 6, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 124

[House Bill 1657]

## OFFICE OF HOMELESS YOUTH PREVENTION AND PROTECTION PROGRAMS--VARIOUS PROVISIONS

AN ACT Relating to services provided by the office of homeless youth prevention and protection programs; and amending RCW 13.32A.160, 43.185C.010, 43.185C.315, 43.330.700, 43.330.705, and 43.330.710.

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

**Sec. 1.** RCW 13.32A.160 and 2000 c 123 s 19 are each amended to read as follows:

(1) When a proper child in need of services petition to approve an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140, or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-finding hearing to be held: (A) For a child who resides in a place other than his or her parent's home and other than an out-of-home placement, within five calendar days unless the last calendar day is a Saturday, Sunday, or holiday, in which case the hearing shall be held on the preceding judicial day; or (B) for a child living at home or in an out-of-home placement, within ten days; and (ii) notify the parent, child, and the department of such date; (b) notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him or her by the court; (c) appoint legal counsel for the child; (d) inform the child and his or her parent of the legal consequences of the court approving or disapproving a child in need of services petition; (e) notify the parents of their rights under this chapter and chapters 11.88, 13.34, ~~((70.96A,))~~ and 71.34 RCW, including the right to file an at-risk youth petition, the right to submit an application for admission of their child to a treatment facility for alcohol, chemical dependency, or mental health treatment, and the right to file a guardianship petition; and (f) notify all parties, including the department, of their right to present evidence at the fact-finding hearing.

(2) Upon filing of a child in need of services petition, the child may be placed, if not already placed, by the department in a crisis residential center, HOPE center, foster family home, group home facility licensed under chapter 74.15 RCW, or any other suitable residence ~~((other than a HOPE center))~~ to be determined by the department. The court may place a child in a crisis residential center for a temporary out-of-home placement as long as the requirements of RCW 13.32A.125 are met.

(3) If the child has been placed in a foster family home or group care facility under chapter 74.15 RCW, the child shall remain there, or in any other suitable residence as determined by the department, pending resolution of the petition by the court. Any placement may be reviewed by the court within three judicial days upon the request of the juvenile or the juvenile's parent.

**Sec. 2.** RCW 43.185C.010 and 2018 c 85 s 8 are each amended to read as follows:

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

(1) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center.

(2) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department of ~~((social and health services))~~ children, youth, and families seeking adjudication of placement of the child.

(3) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(4) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(5) "Department" means the department of commerce.

(6) "Director" means the director of the department of commerce.

(7) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179 and 36.22.1791, and all other sources directed to the homeless housing and assistance program.

(8) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(9) "Homeless housing plan" means the five-year plan developed by the county or other local government to address housing for homeless persons.

(10) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(11) "Homeless housing strategic plan" means the five-year plan developed by the department, in consultation with the interagency council on homelessness, the affordable housing advisory board, and the state advisory council on homelessness.

(12) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(13) "HOPE center" means an agency licensed by the secretary of the department of ~~((social and health services))~~ children, youth, and families to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(16) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of ~~((social and health services))~~ children, youth, and families; (d) the department of veterans affairs; and (e) the department of health.

(17) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(18) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(19) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(20) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(21) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(22) "Semi-secure facility" means any facility including, but not limited to, crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the facility administrator, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(23) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department of ~~((social and health services))~~ children, youth, and families with a ratio of at least one adult staff member to every two children.

(24) "Street outreach services" means a program that provides services and resources either directly or through referral to street youth and unaccompanied young adults as defined in RCW 43.330.702. Services including crisis



intervention, emergency supplies, case management, and referrals may be provided through community-based outreach or drop-in centers.

(25) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

~~((25))~~ (26) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

**Sec. 3.** RCW 43.185C.315 and 2017 c 277 s 7 are each amended to read as follows:

(1) The department shall establish HOPE centers (~~((that provide no more than seventy-five beds))~~) across the state and may establish HOPE centers by contract, within funds appropriated by the legislature specifically for this purpose. HOPE centers shall be operated in a manner to reasonably assure that street youth placed there will not run away. Pursuant to rules established by the facility administrator, residents may come and go from the facility at reasonable hours such that no residents are free to come and go at all hours of the day and night. The facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the HOPE center. Any street youth who runs away from a HOPE center shall not be readmitted unless specifically authorized by the street youth's placement and liaison specialist, and the placement and liaison specialist shall document with specific factual findings an appropriate basis for readmitting any street youth to a HOPE center. HOPE centers are required to have the following:

(a) A license issued by the department of (~~((social and health services))~~) children, youth, and families, including staff who meet licensing qualifications;

(b) A (~~((professional with a master's degree in counseling, social work, or related field and at least one year of experience working with street youth or a bachelor of arts degree in social work or a related field and five years of experience working with street youth. This professional staff person))~~) case manager who may be a contractual or a part-time employee, but must be available to work with street youth in a HOPE center at a ratio of one to every fifteen youth staying in a HOPE center. This (~~((professional))~~) case manager shall be known as a placement and liaison specialist. Preference shall be given to those (~~((professionals))~~) case managers who have experience working with adolescents and are cross-credentialed in mental health and chemical dependency. The placement and liaison specialist shall:

(i) Conduct an assessment of the street youth that includes a determination of the street youth's legal status regarding residential placement;

(ii) Facilitate the street youth's return to his or her legally authorized residence at the earliest possible date or initiate processes to arrange legally authorized appropriate placement. Any street youth who may meet the definition

of dependent child under RCW 13.34.030 must be referred to the department of ~~((social and health services))~~ children, youth, and families. The department of ~~((social and health services))~~ children, youth, and families shall determine whether a dependency petition should be filed under chapter 13.34 RCW. A shelter care hearing must be held within seventy-two hours to authorize out-of-home placement for any youth the department of ~~((social and health services))~~ children, youth, and families determines is appropriate for out-of-home placement under chapter 13.34 RCW. All of the provisions of chapter 13.32A RCW must be followed for children in need of services or at-risk youth;

(iii) Interface with other relevant resources and system representatives to secure long-term residential placement and other needed services for the street youth;

(iv) Be assigned immediately to each youth and meet with the youth within eight hours of the youth receiving HOPE center services;

(v) Facilitate a physical examination of any street youth who has not seen a physician within one year prior to residence at a HOPE center and facilitate evaluation by a county-designated mental health professional, a chemical dependency specialist, or both if appropriate; and

(vi) Arrange an educational assessment to measure the street youth's competency level in reading, writing, and basic mathematics, and that will measure learning disabilities or special needs;

(c) Staff trained in development needs of street youth as determined by the department, including but not limited to an ~~((administrator who is a professional with a master's degree in counseling, social work, or a related field and at least one year of experience working with street youth, or a bachelor of arts degree in social work or a related field and five years of experience working with street youth.))~~ on-site program manager who must work with the placement and liaison specialist to provide appropriate services on site;

(d) A data collection system that measures outcomes for the population served, and enables research and evaluation that can be used for future program development and service delivery. Data collection systems must have confidentiality rules and protocols developed by the department;

(e) Notification requirements that meet the notification requirements of chapter 13.32A RCW. The youth's arrival date and time must be logged at intake by HOPE center staff. The staff must immediately notify law enforcement and dependency caseworkers if a street youth runs away from a HOPE center. A child may be transferred to a secure facility as defined in RCW 13.32A.030 whenever the staff reasonably believes that a street youth is likely to leave the HOPE center and not return after full consideration of the factors set forth in RCW 43.185C.290(2)(a) (i) and (ii). The street youth's temporary placement in the HOPE center must be authorized by the court or the secretary of the department of ~~((social and health services))~~ children, youth, and families if the youth is a dependent of the state under chapter 13.34 RCW or the department of ~~((social and health services))~~ children, youth, and families is responsible for the youth under chapter 13.32A RCW, or by the youth's parent or legal custodian, until such time as the parent can retrieve the youth who is returning to home;

(f) HOPE centers must identify to the department of ~~((social and health services))~~ children, youth, and families any street youth it serves who is not returning promptly to home. The department of ~~((social and health services))~~

children, youth, and families then must contact the missing children's clearinghouse identified in chapter 13.60 RCW and either report the youth's location or report that the youth is the subject of a dependency action and the parent should receive notice from the department of ~~((social and health services))~~ children, youth, and families; and

(g) Services that provide counseling and education to the street youth.

(2) The department shall award contracts for the operation of HOPE center beds with the goal of facilitating the coordination of services provided for youth by such programs and those services provided by secure and semi-secure crisis residential centers.

(3) Subject to funds appropriated for this purpose, the department must incrementally increase the number of available HOPE beds by at least seventeen beds in fiscal year 2017, at least seventeen beds in fiscal year 2018, and at least seventeen beds in fiscal year 2019, such that by July 1, 2019, seventy-five HOPE beds are established and operated throughout the state as set forth in subsection (1) of this section.

(4) Subject to funds appropriated for this purpose, the beds available in HOPE centers shall be increased incrementally ~~((beyond the limit of seventy-five set forth in subsection (1) of this section))~~. The additional capacity shall be distributed around the state based upon need and, to the extent feasible, shall be geographically situated so that HOPE beds are available across the state. In determining the need for increased numbers of HOPE beds in a particular county or counties, one of the considerations should be the volume of truancy petitions filed there.

**Sec. 4.** RCW 43.330.700 and 2015 c 69 s 4 are each amended to read as follows:

(1) The legislature finds that every night thousands of homeless youth in Washington go to sleep without the safety, stability, and support of a family or a home. This population is exposed to an increased level of violence, human trafficking, and exploitation resulting in a higher incidence of substance abuse, illness, and death. The prevention and reduction of youth and young adult homelessness and protection of homeless youth is of key concern to the state. Nothing in chapter 69, Laws of 2015 is meant to diminish the work accomplished by the implementation of Becca legislation but rather, the intent of the legislature is to further enhance the state's efforts in working with unaccompanied homeless youth and runaways to encourage family reconciliation or permanent housing and support through dependency when family reconciliation is not a viable alternative.

(2) Successfully addressing youth and young adult homelessness ensures that homeless youth and young adults in our state have the support they need to thrive and avoid involvement in the justice system, human trafficking, long-term, avoidable use of public benefits, and extended adult homelessness.

(3) Providing appropriate, relevant, and readily accessible services is critical for addressing one-time, episodic, or longer-term homelessness among youth and young adults, and keeping homeless youth and young adults safe, housed, and connected to family.

(4) The coordination of statewide programs to combat youth and young adult homelessness should include programs addressing both youth and young adults. ~~((However, the legislature acknowledges that current law and))~~ In some

instances, best practices mandate that youth programs and young adult programs be segregated in their implementation; however, in other instances, innovative approaches can ensure the health and safety of both populations while serving them together, allowing for alignment with federal programs and funding opportunities, application of adolescent neurodevelopment research, and maximization of capacity to serve more dispersed populations in rural areas. The legislature further finds that the differing needs of these populations should be considered when assessing which programs are relevant and appropriate.

(5) To successfully reduce and prevent youth and young adult homelessness, it is the goal of the legislature to have the following key components available and accessible:

(a) Stable housing: It is the goal of the legislature to provide a safe and healthy place for homeless youth to sleep each night until permanency can be reached. Every homeless young adult in our state deserves access to housing that gives them a safe, healthy, and supported launching pad to adulthood. Every family in crisis should have appropriate support as they work to keep their children housed and safe. It is the goal of the legislature that every homeless youth discharged from a public system of care in our state will not be discharged into homelessness.

(b) Family reconciliation: All homeless youth should have access to services that support reunification with immediate family. When reunification is not possible for homeless youth, youth should be placed in the custody of the department of ~~((social and health services))~~ children, youth, and families.

(c) Permanent connections: Every homeless young adult should have opportunities to establish positive, healthy relationships with adults, including family members, employers, landlords, teachers, and community members, with whom they can maintain connections and from whom they can receive ongoing, long-term support to help them develop the skills and experiences necessary to achieve a successful transition to adulthood.

(d) Education and employment: Every homeless young adult in our state deserves the opportunity and support they need to complete their high school education and pursue additional education and training. It is the goal of the legislature that every homeless young adult in our state will have the opportunity to engage in employment training and be able to access employment. With both education and employment support and opportunities, young adults will have the skills they need to become self-sufficient, self-reliant, and independent.

(e) Social and emotional well-being: Every homeless youth and young adult in our state should have access to both behavioral health care and physical health care. Every state-funded program for homeless youth and young adults must endeavor to identify, encourage, and nurture each youth's strengths and abilities and demonstrate a commitment to youth-centered programming.

**Sec. 5.** RCW 43.330.705 and 2015 c 69 s 5 are each amended to read as follows:

(1) There is created the office of homeless youth prevention and protection programs within the department.

(2) Activities of the office of homeless youth prevention and protection programs must be carried out by a director of the office of homeless youth prevention and protection programs, supervised by the director of the department or his or her designee.

(3) The office of homeless youth prevention and protection programs is responsible for leading efforts under this subchapter to coordinate a spectrum of ongoing and future funding, policy, and practice efforts related to homeless youth and improving the safety, health, and welfare of homeless youth in this state.

(4) The measurable goals of the office of homeless youth prevention and protection programs are to: (a) Measurably decrease the number of homeless youth and young adults by identifying programs that address the initial causes of homelessness, and (b) measurably increase permanency rates among homeless youth by decreasing the length and occurrences of youth homelessness caused by a youth's separation from family or a legal guardian.

(5) The office of homeless youth prevention and protection programs shall (a) gather data and outcome measures, (b) initiate data-sharing agreements, (c) develop specific recommendations and timelines to address funding, policy, and practice gaps within the state system for addressing the five (~~priority service areas identified~~) key components in RCW 43.330.700, (d) make reports, (e) increase system integration and coordinate efforts to prevent state systems from discharging youth and young adults into homelessness, (f) develop measures to include by county and statewide the number of homeless youth, dependency status, family reunification status, housing status, program participation, and runaway status, and (g) develop a comprehensive plan to encourage identification of youth experiencing homelessness, promote family stability, and eliminate youth and young adult homelessness.

(6)(a) The office of homeless youth prevention and protection programs shall regularly consult with an advisory committee, comprised of advocates, at least two legislators, at least two parent advocates, at least two youth representatives, at least one representative from law enforcement, service providers, and other stakeholders knowledgeable in the provision of services to homeless youth and young adults, including the prevention of youth and young adult homelessness, the dependency system, and family reunification, for a total of twelve members. The advisory committee shall provide guidance and recommendations to the office of homeless youth prevention and protection programs regarding funding, policy, and practice gaps within and among state programs.

(b) The advisory committee must be staffed by the department.

(c) The members of the advisory committee must be appointed by the governor, except for the legislators who must be appointed by the speaker of the house of representatives and the president of the senate.

(d) The advisory committee must have its initial meeting no later than March 1, 2016.

(7) The office of homeless youth prevention and protection programs must be operational no later than January 1, 2016. Transfer of powers, duties, and functions of the department of (~~social and health services~~) children, youth, and families to the department of commerce pertaining to youth homeless services and programs identified in RCW 43.330.710(2) may occur before this date.

**Sec. 6.** RCW 43.330.710 and 2015 c 69 s 7 are each amended to read as follows:

(1)(a) The office of homeless youth prevention and protection programs shall report to the director or the director's designee.

(b)(i) The office of homeless youth prevention and protection programs may distribute grants to providers who serve homeless youth and young adults throughout the state.

(ii) The grants must fund services in the five ~~((priority service areas identified))~~ key components in RCW 43.330.700.

(iii) The grants must be expended on a statewide basis and may be used to support direct services, as well as technical assistance, evaluation, and capacity building.

(2) The office of homeless youth prevention and protection programs shall provide management and oversight guidance and direction to the following programs:

- (a) HOPE centers as described in RCW 43.185C.315;
- (b) Crisis residential centers as described in RCW 43.185C.295;
- (c) Street ~~((youth))~~ outreach services as defined in RCW 43.185C.010;
- (d) Independent youth housing programs as described in RCW 43.63A.305.

Passed by the House March 1, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

### CHAPTER 125

[House Bill 1673]

#### PUBLIC RECORDS ACT EXEMPTION--EXPLOSIVES

AN ACT Relating to exempting information relating to the regulation of explosives from public disclosure; amending RCW 42.56.460; and adding a new section to chapter 42.56 RCW.

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

**Sec. 1.** RCW 42.56.460 and 2005 c 274 s 426 are each amended to read as follows:

(1) All records obtained and all reports produced as required by state fireworks law, chapter 70.77 RCW, are exempt from disclosure under this chapter.

(2) All records obtained and all reports submitted as required by the Washington state explosives act, chapter 70.74 RCW, are exempt from disclosure under this chapter. Nothing in this subsection (2) shall be construed to restrict access to information related to the regulatory duties or actions of any agency.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.56 RCW to read as follows:

By December 1, 2023, the public records exemptions accountability committee, in addition to its duties in RCW 42.56.140, must prepare and submit a report to the legislature that includes recommendations on whether the exemption created in RCW 42.56.460(2) should be continued, modified, or terminated. No recommendations or action from the committee or the legislature will result in the continuation of the exemption created in RCW 42.56.460(2).

Passed by the House March 11, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 126

[House Bill 1688]

### VETERANS--RESIDENT STUDENT STATUS

AN ACT Relating to resident student status as applied to veterans; and amending RCW 28B.15.012.

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

**Sec. 1.** RCW 28B.15.012 and 2018 c 204 s 3 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the national guard who entered service as a Washington resident and who has maintained Washington as his or her domicile but is not stationed in the state;

(i) A student who is the spouse or a dependent of a person who is on active military duty or a member of the national guard who entered service as a Washington resident and who has maintained Washington as his or her domicile but is not stationed in the state. If the person on active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(j) A student who is entitled to transferred federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.) benefits based on the student's relationship as a spouse, former spouse, or child to an individual who is on active duty in the uniformed services;

(k) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(l) A student who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for educational assistance benefits under (~~the federal all-volunteer force educational assistance program (38 U.S.C. Sec. 3001 et seq.), the federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.), or any other federal law authorizing educational assistance benefits for veterans~~) Title 38 U.S.C.; and enters an institution of higher education in Washington within three years of the date of separation;

(m) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

(n) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who died in the line of duty;

(o) A student who is entitled to federal vocational rehabilitation and employment services for veterans with service-connected disabilities under 38 U.S.C. Sec. 3102(a);

(p) A student who is defined as a covered individual in 38 U.S.C. Sec. 3679(c)(2) as it existed on the effective date of this section, or such subsequent date as the student achievement council may determine by rule;



(q) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

~~((p))~~ (r) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

~~((q))~~ (s) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

~~((r))~~ (t) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is continuously enrolled in a degree program.

(3)(a) A student who qualifies under subsection (2)(j), (l), (m), ~~((r))~~ (n), (o), or (p) of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.

(b) Nothing in subsection (2)(j), (l), (m), ~~((r))~~ (n), (o), or (p) of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.

(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or ~~((r))~~ (q) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

(b) A person who is not a citizen of the United States of America, unless the person meets and complies with all applicable requirements in this section and RCW 28B.15.013 and is one of the following:

- (i) A lawful permanent resident;
- (ii) A temporary resident;

(iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;

(iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of the date the person's residency status is determined;

(v) A person who has been granted deferred action for childhood arrival status before, on, or after June 7, 2018, regardless of whether the person is no longer or will no longer be granted deferred action for childhood arrival status due to the termination, suspension, or modification of the deferred action for childhood arrival program; or

(vi) A person who is otherwise permanently residing in the United States under color of law, including deferred action status.

(5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(7) The term "active military duty" means the person is serving on active duty in:

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and active service under 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

Passed by the House March 4, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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**CHAPTER 127**

[Second Substitute House Bill 1713]

**MISSING AND MURDERED NATIVE AMERICAN WOMEN--LAW ENFORCEMENT  
RESPONSE**

AN ACT Relating to improving law enforcement response to missing and murdered Native American women; adding new sections to chapter 43.43 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** The legislature finds that Native American women experience violence at much higher rates than other populations. A recent federal study reported that Native American women are murdered at rates greater than ten times the national average. Many of these crimes, however, are often unsolved or even unreported because there are also very high rates of disappearance for Native American women.

The legislature further finds that although violence against Native American women has been a neglected issue in society, there is a growing awareness of this crisis, as well as a recognition that the criminal justice system needs to better serve and protect Native American women. The legislature intends to find ways to connect state, tribal, and federal resources to create partnerships to find ways to solve this crisis facing Native American women in our state, while being mindful to include voices from both tribal and urban communities.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.43 RCW to read as follows:

(1) Two liaison positions for missing and murdered indigenous women and other missing and murdered indigenous persons are established in the Washington state patrol. One liaison must reside in western Washington, and one liaison must reside in eastern Washington. The liaisons shall work to build relationships to increase trust between governmental organizations and native communities. The liaisons shall facilitate communications among:

- (a) Indian tribes and tribal organizations and communities;
- (b) Urban Indian organizations and communities;
- (c) Tribal liaisons in other state agencies;
- (d) Law enforcement agencies at the federal, state, local, and tribal level;

and

(e) Nongovernmental entities that provide services to Native American women.

(2) The salary for the liaison positions is fixed by the Washington state patrol.

(3) To be eligible for hire as a liaison, an applicant must have significant experience living in tribal or urban indigenous communities.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.43 RCW to read as follows:

(1) The Washington state patrol must develop a best practices protocol for law enforcement response to missing persons reports for indigenous women and other indigenous persons. The protocol must include steps that law enforcement should take upon receiving a missing persons report for an indigenous woman or other indigenous person.

(2) The governor's office of Indian affairs must provide the Washington state patrol with government-to-government training, and must work with the Washington state patrol to schedule and facilitate the training.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House March 5, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 128

[Substitute House Bill 1742]

### SEXUALLY EXPLICIT DEPICTIONS OF MINORS--JUVENILE OFFENSES

AN ACT Relating to juvenile offenses that involve depictions of minors; amending RCW 9.68A.050, 9.68A.060, 9.68A.070, 9.68A.075, and 13.40.070; adding a new section to chapter 13.40 RCW; adding new sections to chapter 9.68A RCW; adding a new section to chapter 9A.86 RCW; creating a new section; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** This act may be known and cited as the responsible teen communications act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The legislature finds that exchange of intimate images by minors is increasingly common, and that such actions may lead to harm and long-term consequences. The legislature intends to develop age-appropriate prevention and interventions to prevent harm and to hold accountable youth who harm others through exchange of intimate images.

(2) The Washington coalition of sexual assault programs, in consultation with the office of the superintendent of public instruction, the Washington association for the treatment of sexual abusers, the department of children, youth, and families, the department of social and health services, the juvenile court administrators, the Washington association of prosecuting attorneys, representatives from public defense, youth representatives, and other relevant stakeholders, shall convene a work group to make recommendations to the legislature regarding age-appropriate prevention and intervention strategies to address potential harms caused by exchange of intimate images by minors.

(3) By December 1, 2019, the work group shall make a report to the legislature identifying education, prevention, and other responses to the harms that may be associated with exchange of intimate images by minors.

**Sec. 3.** RCW 9.68A.050 and 2017 c 126 s 3 are each amended to read as follows:

(1)(a) A person eighteen years of age or older commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that

depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

(i) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) A person eighteen years of age or older commits the crime of dealing in depictions of a minor engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Dealing in depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of dealing in one or more depictions or images of visual or printed matter constitutes a separate offense.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9.68A RCW to read as follows:

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter 9A.20 RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

**Sec. 5.** RCW 9.68A.060 and 2017 c 126 s 4 are each amended to read as follows:

(1)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state one or more depictions or images of visual or printed matter constitutes a separate offense.

(3) This section does not apply to a minor who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct.

(4) This section does not apply to a person under thirteen years of age who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

**Sec. 6.** RCW 9.68A.070 and 2017 c 126 s 2 are each amended to read as follows:

(1)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of possession of depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly possesses a visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(2)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of possession of depictions of a minor engaged in sexually

explicit conduct in the second degree when he or she knowingly possesses any visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Possession of depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of possession of one or more depictions or images of visual or printed matter constitutes a separate offense.

(3) This section does not apply to a minor's possession of visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct.

(4) This section does not apply to a person under thirteen years of age in possession of visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

**Sec. 7.** RCW 9.68A.075 and 2010 c 227 s 7 are each amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter 9A.20 RCW.

(2) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter 9A.20 RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

(5) This section does not apply to a minor who intentionally views over the internet visual or printed matter depicting a minor thirteen years of age or older engaged in sexually explicit conduct.

(6) This section does not apply to a person under thirteen years of age who intentionally views over the internet visual or printed matter depicting himself or herself engaged in sexually explicit conduct.



**Sec. 8.** RCW 13.40.070 and 2018 c 82 s 1 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile court if (a) an alleged offender is accused of an offense that is defined as a sex offense or violent offense under RCW 9.94A.030, other than assault in the second degree or robbery in the second degree; or (b) an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that may be filed under subsections (5) and (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with:

(a) Either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case; ((or))

(b) Voyeurism in the second degree, the offender is under seventeen years of age, and the alleged offense is the offender's first voyeurism in the second degree offense, the prosecutor shall divert the case, unless the offender has received two diversions for any offense in the previous two years;

(c) Minor selling depictions of himself or herself engaged in sexually explicit conduct under section 4(5) of this act and the alleged offense is the offender's first violation of section 4(5) of this act, the prosecutor shall divert the case; or

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in section 4(1) of this act and the alleged offense is the offender's first violation of section 4(1) of this act, the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(10) The responsibilities of the prosecutor under subsections (1) through (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to community-based programs, restorative justice programs, mediation, or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

(12) Prosecutors and juvenile courts are encouraged to engage with and partner with community-based programs to expand, improve, and increase options to divert youth from formal processing in juvenile court. Nothing in this chapter should be read to limit partnership with community-based programs to create diversion opportunities for juveniles.

**NEW SECTION. Sec. 9.** A new section is added to chapter 9.68A RCW to read as follows:

A minor who possesses any depiction or depictions of any other minor engaged in an act of sexually explicit conduct as defined in RCW 9.68A.011 forfeits any right to continued possession of the depiction or depictions and any court exercising jurisdiction over such depiction or depictions shall order forfeiture of the depiction or depictions to the custody of law enforcement.

**NEW SECTION. Sec. 10.** A new section is added to chapter 9A.86 RCW to read as follows:

A minor who possesses any image of any other minor which constitutes an intimate image as defined in RCW 9A.86.010 forfeits any right to continued possession of the image and any court exercising jurisdiction over such image shall order forfeiture of the image.

Passed by the House March 4, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 129

[Engrossed House Bill 1801]

## ABANDONED CEMETERIES--ENTRY

AN ACT Relating to entering abandoned cemeteries for authorized purposes; amending RCW 68.60.030; adding a new section to chapter 68.60 RCW; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 68.60 RCW to read as follows:

It is lawful to enter an abandoned cemetery for purposes of:

- (1) Burials pursuant to RCW 68.60.070 and associated rules;
- (2) Care and maintenance activities authorized under RCW 68.60.030; and
- (3) Visitation of graves.

**Sec. 2.** RCW 68.60.030 and 2009 c 102 s 21 are each amended to read as follows:

(1)(a) The department of archaeology and historic preservation may grant, by nontransferable certificate, the authority to maintain and protect an abandoned cemetery upon application made by a state or local governmental organization, such as a city or county, or by a preservation organization ~~((which))~~ that has been incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery. Such authority ~~((shall be))~~ is limited to the care, maintenance, restoration, protection, and historical preservation of the abandoned cemetery, and ~~((shall))~~ does not include authority to make burials. In order to activate a historical cemetery for burials, an applicant must apply for a certificate of authority to operate a cemetery from the funeral and cemetery board.

(b) Those ~~((preservation and maintenance corporations))~~ organizations that are granted authority to maintain and protect an abandoned cemetery ~~((shall be))~~ are entitled to hold and possess burial records, maps, and other historical documents as may exist. ~~((Maintenance and preservation corporations))~~ Organizations that are granted authority to maintain and protect an abandoned cemetery ~~((shall))~~ are not ~~((be))~~ liable to those claiming burial rights, ancestral ownership, or to any other person or organization alleging to have control by any form of conveyance not previously recorded at the county auditor's office within the county in which the abandoned cemetery exists. Such organizations ~~((shall))~~ are not ~~((be))~~ liable for any reasonable alterations made during restoration work on memorials, roadways, walkways, features, plantings, or any other detail of the abandoned cemetery.

(c) Should the maintenance and preservation corporation be dissolved, the department of archaeology and historic preservation shall revoke the certificate of authority.

(d) Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery may establish care funds.

(2) Except as provided in subsection (1) of this section, the department of archaeology and historic preservation may, in its sole discretion, authorize any Washington nonprofit corporation that is not expressly incorporated for the purpose of restoring, maintaining, and protecting an abandoned cemetery, to restore, maintain, and protect one or more abandoned cemeteries. The authorization may include the right of access to any burial records, maps, and

other historical documents, but (~~shall~~) may not include the right to be the permanent custodian of original records, maps, or documents. This authorization (~~shall~~) must be granted by a nontransferable certificate of authority. Any nonprofit corporation authorized and acting under this subsection is immune from liability to the same extent as if it were a preservation organization holding a certificate of authority under subsection (1) of this section.

(3) The department of archaeology and historic preservation (~~shall~~) must establish standards and guidelines for granting certificates of authority under subsections (1) and (2) of this section to assure that any restoration, maintenance, and protection activities authorized under this subsection are conducted and supervised in an appropriate manner.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 5, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 130

[Engrossed House Bill 1846]

### OFF-ROAD VEHICLE MONEYS--DISPOSITION--TECHNICAL CORRECTION

AN ACT Relating to making a technical correction for the disposition of off-road vehicle moneys; and amending RCW 46.68.045.

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

**Sec. 1.** RCW 46.68.045 and 2010 c 161 s 822 are each amended to read as follows:

The moneys collected by the department for ORV registrations, temporary ORV use permits, decals, and tabs under (~~this~~) chapters 46.09 and (~~chapter~~) 46.17 RCW must be distributed from time to time, but at least once a year, in the following manner:

(1) The department shall retain enough money to cover expenses incurred in the administration of (~~this~~) chapter 46.09 RCW. The amount kept by the department must never exceed eighteen percent of fees collected.

(2) The remaining moneys must be distributed for off-road vehicle recreation facilities by the recreation and conservation funding board in accordance with RCW 46.09.520(2)(d)(ii)(A).

Passed by the House March 6, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 131

[Engrossed Substitute House Bill 1849]

## TIDELANDS AND SHORELANDS--LEASE TERMS

AN ACT Relating to revising the lease terms for managing first-class unplatted tidelands and shorelands; and amending RCW 79.125.410 and 79.130.020.

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

**Sec. 1.** RCW 79.125.410 and 2005 c 155 s 527 are each amended to read as follows:

(1) The department is authorized to lease to the abutting upland owner any unplatted first-class tidelands or shorelands.

(2) The department shall, prior to the issuance of any lease under the provisions of this section, fix the annual ~~((rental))~~ rent for the tidelands or shorelands and prescribe the terms and conditions of the lease. No lease issued under the provisions of this section shall be for a longer term than ~~((ten))~~ fifty-five years, and every lease shall be subject to termination upon ninety days' notice to the lessee in the event that the department shall decide that it is in the best interest of the state that the tidelands or shorelands be surveyed and platted. At the expiration of any lease issued under the provisions of this section, the lessee or the lessee's successors or assigns shall have a preference right to re-lease the lands covered by the original lease or any portion of the lease, if the department deems it to be in the best interests of the state to re-lease the lands, for succeeding periods not exceeding fifty-five years each at the ~~((rental))~~ rent and upon the terms and conditions as may be prescribed by the department. The department may not lease or re-lease any first-class tidelands or shorelands where the sole basis of the state's title is adverse possession of the tidelands or shorelands to be leased.

(3) In case the abutting uplands are not improved and occupied for residential purposes and the abutting upland owner has not filed an application for the lease of the lands, the department may lease the lands to any person for booming purposes under the terms and conditions of this section. However, failure to use for booming purposes any lands leased under this section for such purposes for a period of ~~((one year))~~ three years shall work a forfeiture of the lease and the land shall revert to the state without any notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

**Sec. 2.** RCW 79.130.020 and 2005 c 155 s 602 are each amended to read as follows:

(1) The department shall, prior to the issuance of any lease under the provisions of this chapter, fix the annual ~~((rental))~~ rent and prescribe the terms and conditions of the lease. However, in fixing the ~~((rental))~~ rent, the department shall not take into account the value of any improvements placed upon the lands by the lessee.

(2) No lease issued under the provisions of this chapter shall be for a term longer than thirty years ~~((from the date thereof if in front of second class tidelands or shorelands; or a term longer than ten years if in front of unplatted first class tidelands or shorelands leased under the provisions of RCW 79.125.410, in which case the lease shall be subject to the same terms and conditions as provided for in the lease of the unplatted first class tidelands or shorelands)).~~ Failure to use those beds leased under the provisions of this chapter

for booming purposes, for a period of ~~((two))~~ three years shall work a forfeiture of the lease and the land shall revert to the state without notice to the lessee upon the entry of a declaration of forfeiture in the records of the department.

Passed by the House March 12, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

**CHAPTER 132**

[House Bill 1908]

**ELECTRONIC AUTHENTICATION ACT--REPEAL**

AN ACT Relating to repealing the electronic authentication act; amending RCW 9.38.060, 9A.72.085, 43.07.120, 43.07.173, 48.185.005, 58.09.050, and 58.09.110; and repealing RCW 19.34.010, 19.34.020, 19.34.030, 19.34.040, 19.34.100, 19.34.101, 19.34.110, 19.34.111, 19.34.120, 19.34.130, 19.34.200, 19.34.210, 19.34.220, 19.34.230, 19.34.231, 19.34.240, 19.34.250, 19.34.260, 19.34.270, 19.34.280, 19.34.290, 19.34.291, 19.34.300, 19.34.305, 19.34.310, 19.34.311, 19.34.320, 19.34.321, 19.34.330, 19.34.340, 19.34.350, 19.34.351, 19.34.360, 19.34.400, 19.34.410, 19.34.420, 19.34.500, 19.34.501, 19.34.502, 19.34.503, 19.34.900, 19.34.901, and 43.19.794.

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

**Sec. 1.** RCW 9.38.060 and 2001 c 39 s 1 are each amended to read as follows:

(1) A person shall not knowingly misrepresent the person's identity or authorization to obtain a public key certificate used to reference a private key for creating a digital signature.

(2) A person shall not knowingly forge a digital signature ~~((as defined in RCW 19.34.020(16)))~~.

(3) A person shall not knowingly present a public key certificate for which the person is not the owner of the corresponding private key in order to obtain unauthorized access to information or engage in an unauthorized transaction.

~~((The definitions in RCW 19.34.020 apply to this section.~~

~~(((A person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.~~

(5) "Digital signature" means an electronic signature that is a transformation of a message using an asymmetric cryptosystem such that a person who has the initial message and the signer's public key can accurately determine whether the:

(a) Transformation was created using the private key that corresponds to the signer's public key; and

(b) Initial message has been altered since the transformation was made.

**Sec. 2.** RCW 9A.72.085 and 2014 c 93 s 4 are each amended to read as follows:

(1) Whenever, under any law of this state or under any rule, order, or requirement made under the law of this state, any matter in an official proceeding is required or permitted to be supported, evidenced, established, or proved by a person's sworn written statement, declaration, verification, certificate, oath, or affidavit, the matter may with like force and effect be supported, evidenced, established, or proved in the official proceeding by an unsworn written statement, declaration, verification, or certificate, which:

(a) Recites that it is certified or declared by the person to be true under penalty of perjury;

(b) Is subscribed by the person;

(c) States the date and place of its execution; and

(d) States that it is so certified or declared under the laws of the state of Washington.

(2) The certification or declaration may be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct":

.....

(Date and Place)

(Signature)

(3) For purposes of this section, a person subscribes to an unsworn written statement, declaration, verification, or certificate by:

(a) Affixing or placing his or her signature as defined in RCW 9A.04.110 on the document;

(b) Attaching or logically associating his or her digital signature or electronic signature ((as defined in RCW 19.34.020)) to the document;

(c) Affixing or logically associating his or her signature in the manner described in general rule 30 to the document if he or she is a licensed attorney; or

(d) Affixing or logically associating his or her full name, department or agency, and badge or personnel number to any document that is electronically submitted to a court, a prosecutor, or a magistrate from an electronic device that is owned, issued, or maintained by a criminal justice agency if he or she is a law enforcement officer.

(4) This section does not apply to writings requiring an acknowledgment, depositions, oaths of office, or oaths required to be taken before a special official other than a notary public.

(5) "Digital signature" means an electronic signature that is a transformation of a message using an asymmetric cryptosystem such that a person who has the initial message and the signer's public key can accurately determine whether the:

(a) Transformation was created using the private key that corresponds to the signer's public key; and

(b) Initial message has been altered since the transformation was made.

(6) "Electronic signature" has the same meaning as in RCW 19.360.030.

**Sec. 3.** RCW 43.07.120 and 2015 c 176 s 8101 are each amended to read as follows:

(1) The secretary of state must establish by rule and collect the fees in this subsection:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;

(b) For any certificate under seal;

(c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 23.95 RCW, Title 23B RCW, chapter 18.100, 19.09, ~~((19.34.))~~ 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.04, 25.15, 25.10, 25.05, or 26.60 RCW:

- (a) Any service rendered in-person at the secretary of state's office;
- (b) Any expedited service;
- (c) The electronic or facsimile transmittal of information from corporation records or copies of documents;
- (d) The providing of information by micrographic or other reduced-format compilation;
- (e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and
- (f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court may be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law.

**Sec. 4.** RCW 43.07.173 and 2016 c 202 s 61 are each amended to read as follows:

(1) The secretary of state may accept and file in the secretary's office electronic transmissions of any documents authorized or required to be filed pursuant to Title 23, 23B, 24, or 25 RCW or chapter 18.100 RCW. The acceptance by the secretary of state is conditional upon the document being legible and otherwise satisfying the requirements of state law or rules with respect to form and content, including those established under RCW 43.07.170. If the document must be signed, that requirement may be satisfied by an electronic signature ~~((as defined in RCW 19.34.020)).~~

(2) If a fee is required for filing the document, the secretary may reject the document for filing if the fee is not received before, or at the time of, receipt.

**Sec. 5.** RCW 48.185.005 and 2017 c 307 s 1 are each amended to read as follows:

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

(1)(a)(i) "Delivered by electronic means" includes:

(A) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(B) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice of the posting which shall be provided by



electronic mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party.

(i) "Delivered by electronic means" does not include any communication between an insurer and an insurance producer relating to RCW 48.17.591 and 48.17.595.

(b) "Party" means any recipient of any notice or document required as part of an insurance transaction, including but not limited to an applicant, an insured, a policyholder, or an annuity contract holder.

(2) Subject to the requirements of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means ~~((so long as it meets the requirements of the Washington electronic authentication act (chapter 19.34 RCW). An electronic signature is the equivalent of a digital signature, as those terms are defined in chapter 19.34 RCW, for the purposes of satisfying the requirements of chapter 19.34 RCW under this chapter)).~~

(3) Delivery of a notice or document in accordance with this section is the equivalent to any delivery method required under applicable law, including delivery by first-class mail; first-class mail, postage prepaid; certified mail; or registered mail.

(4) A notice or document may be delivered by an insurer to a party by electronic means under this section only if:

(a) The party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(b) The party, before giving consent, has been provided with a clear and conspicuous statement informing the party of:

(i) The right the party has to withdraw consent to have a notice or document delivered by electronic means at any time, and any conditions or consequences imposed in the event consent is withdrawn;

(ii) The types of notices and documents to which the party's consent would apply;

(iii) The right of a party to have a notice or document in paper form; and

(iv) The procedures a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update the party's electronic mail address;

(c) The party:

(i) Before giving consent, has been provided with a statement of the hardware and software requirements for access to and retention of notices or documents delivered by electronic means; and

(ii) Consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent; and

(d) After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies:

(i) Shall provide the party with a statement that describes:

(A) The revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means; and

(B) The right of the party to withdraw consent without the imposition of any fee, condition, or consequence that was not disclosed at the time of initial consent; and

(ii) Complies with (b) of this subsection.

(5) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(6) If this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(7) The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subsection (4)(c)(ii) of this section.

(8)(a) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(b) A withdrawal of consent by a party is effective within a reasonable period of time, not to exceed thirty days, after receipt of the withdrawal by the insurer.

(c) Failure by an insurer to comply with subsections (4)(d) and (10) of this section may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

(9) This section does not apply to a notice or document delivered by an insurer in an electronic form before July 24, 2015, to a party who, before that date, has consented to receive a notice or document in an electronic form otherwise allowed by law.

(10) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before July 24, 2015, and pursuant to this section, an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically, the insurer shall:

(a) Provide the party with a statement that describes:

(i) The notices or documents that shall be delivered by electronic means under this section that were not previously delivered electronically; and

(ii) The party's right to withdraw consent to have notices or documents delivered by electronic means, without the imposition of any condition or consequence that was not disclosed at the time of initial consent; and

(b) Comply with subsection (4)(b) of this section.

(11) An insurer shall deliver a notice or document by any other delivery method permitted by law other than electronic means if:

(a) The insurer attempts to deliver the notice or document by electronic means and has a reasonable basis for believing that the notice or document has not been received by the party; or

(b) The insurer becomes aware that the electronic mail address provided by the party is no longer valid.

(12) A producer shall not be subject to civil liability for any harm or injury that occurs as a result of a party's election to receive any notice or document by electronic means or by an insurer's failure to deliver a notice or document by electronic means.

(13) This section does not modify, limit, or supersede the provisions of the federal electronic signatures in global and national commerce act (E-SIGN), P.L. 106-229, as amended.

**Sec. 6.** RCW 58.09.050 and 1999 c 39 s 1 are each amended to read as follows:

The records of survey to be filed under authority of this chapter shall be processed as follows:

(1)(a) The record of survey filed under RCW 58.09.040(1) shall be an original map, eighteen by twenty-four inches, that is legibly drawn in black ink on mylar and is suitable for producing legible prints through scanning, microfilming, or other standard copying procedures.

(b) The following are allowable formats for the original that may be used in lieu of the format set forth under (a) of this subsection:

(i) Photo mylar with original signatures;

(ii) Any standard material as long as the format is compatible with the auditor's recording process and records storage system. This format is only allowed in those counties that are excepted from permanently storing the original document as required in RCW 58.09.110(5);

(iii) An electronic version of the original if the county has the capability to accept a digital signature issued by ~~((a licensed certification authority under chapter 19.34 RCW or))~~ a certification authority under the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system. The electronic version shall be a standard raster file format acceptable to the county.

A two inch margin on the left edge and a one-half inch margin on other edges of the map shall be provided. The auditor shall reject for recording any maps not suitable for producing legible prints through scanning, microfilming, or other standard copying procedures.

(2) Information required by RCW 58.09.040(2) shall be filed on a standard form eight and one-half inches by fourteen inches as designed and prescribed by the department of natural resources. The auditor shall reject for recording any records of corner information not suitable for producing legible prints through scanning, microfilming, or other standard copying procedures. An electronic version of the standard form may be filed if the county has the capability to accept a digital signature issued by ~~((a licensed certification authority under chapter 19.34 RCW or))~~ a certification authority under the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system. The electronic version shall be a standard raster file format acceptable to the county.

(3) Two legible prints of each record of survey as required under the provisions of this chapter shall be furnished to the county auditor in the county in which the survey is to be recorded. The auditor, in those counties using imaging systems, may require only the original, and fewer prints, as needed, to meet the requirements of their duties. If any of the prints submitted are not suitable for scanning or microfilming the auditor shall not record the original.

(4) Legibility requirements are set forth in the recorder's checklist under RCW 58.09.110.

**Sec. 7.** RCW 58.09.110 and 1999 c 39 s 2 are each amended to read as follows:

The auditor shall accept for recording those records of survey and records of corner information that are in compliance with the recorder's checklist as jointly developed by a committee consisting of the survey advisory board and two representatives from the Washington state association of county auditors. This checklist shall be adopted in rules by the department of natural resources.

(1) The auditor shall keep proper indexes of such record of survey by the name of owner and by quarter-quarter section, township, and range, with reference to other legal subdivisions.

(2) The auditor shall keep proper indexes of the record of corner information by section, township, and range.

(3) After entering the recording data on the record of survey and all prints received from the surveyor, the auditor shall send one of the surveyor's prints to the department of natural resources in Olympia, Washington, for incorporation into the statewide survey records repository. However, the county and the department of natural resources may mutually agree to process the original or an electronic version of the original in lieu of the surveyor's print.

(4) After entering the recording data on the record of corner information the auditor shall send a legible copy, suitable for scanning, to the department of natural resources in Olympia, Washington. However, the county and the department of natural resources may mutually agree to process the original or an electronic version of the original in lieu of the copy.

(5) The auditor shall permanently keep the original document filed using storage and handling processes that do not cause excessive deterioration of the document. A county may be excepted from the requirement to permanently store the original document if it has a document scanning, filming, or other process that creates a permanent, archival record that meets or surpasses the standards as adopted in rule by the division of archives and records management in chapter 434-663 or 434-677 WAC. The auditor must be able to provide full-size copies upon request. The auditor shall maintain a copy or image of the original for public reference.

(6) If the county has the capability to accept a digital signature issued by (~~a licensed certification authority under chapter 19.34 RCW or~~) a certification authority under the rules adopted by the Washington state board of registration for professional engineers and land surveyors, and can import electronic files into an imaging system, the auditor may accept for recording electronic versions of the documents required by this chapter. The electronic version shall be a standard raster file format acceptable to the county.

(7) This section does not supersede other existing recording statutes.

**NEW SECTION. Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 19.34.010 (Purpose and construction) and 1999 c 287 s 1 & 1996 c 250 s 102;

(2) RCW 19.34.020 (Definitions) and 2000 c 171 s 50, 1999 c 287 s 2, 1997 c 27 s 30, & 1996 c 250 s 103;

(3) RCW 19.34.030 (Secretary—Duties) and 1999 c 287 s 4, 1997 c 27 s 1, & 1996 c 250 s 104;

(4) RCW 19.34.040 (Secretary—Fees—Disposition) and 1997 c 27 s 2 & 1996 c 250 s 105;

(5) RCW 19.34.100 (Certification authorities—Licensure—Qualifications—Revocation and suspension) and 2015 3rd sp.s. c 1 s 404, 2015 c 225 s 21, 1999 c 287 s 5, 1998 c 33 s 1, 1997 c 27 s 3, & 1996 c 250 s 201;

(6) RCW 19.34.101 (Expiration of licenses—Renewal—Rules) and 1997 c 27 s 4;

(7) RCW 19.34.110 (Compliance audits) and 1999 c 287 s 6, 1997 c 27 s 5, & 1996 c 250 s 202;

(8) RCW 19.34.111 (Qualifications of auditor signing report of opinion—Compliance audits under state auditor's authority) and 1999 c 287 s 7 & 1997 c 27 s 6;

(9) RCW 19.34.120 (Licensed certification authorities—Enforcement—Suspension or revocation—Penalties—Rules—Costs—Procedure—Injunctions) and 1999 c 287 s 8, 1997 c 27 s 7, & 1996 c 250 s 203;

(10) RCW 19.34.130 (Certification authorities—Prohibited activities—Statement by secretary advising of certification authorities creating prohibited risks—Protest—Hearing—Disposition—Notice—Procedure) and 1999 c 287 s 9 & 1996 c 250 s 204;

(11) RCW 19.34.200 (Licensed certification authorities—Requirements) and 1999 c 287 s 10, 1997 c 27 s 8, & 1996 c 250 s 301;

(12) RCW 19.34.210 (Certificate—Issuance—Confirmation of information—Confirmation of prospective subscriber—Standards, statements, plans, requirements more rigorous than chapter—Revocation, suspension—Investigation—Notice—Procedure) and 1999 c 287 s 11, 1997 c 27 s 9, & 1996 c 250 s 302;

(13) RCW 19.34.220 (Licensed certification authorities—Warranties, obligations upon issuance of certificate—Notice) and 1997 c 27 s 32 & 1996 c 250 s 303;

(14) RCW 19.34.230 (Subscribers—Representations and duties upon acceptance of certificate) and 1996 c 250 s 304;

(15) RCW 19.34.231 (City or county as certification authority) and 2015 c 72 s 9;

(16) RCW 19.34.240 (Private key—Control—Public disclosure exemption) and 2011 c 60 s 10, 2005 c 274 s 235, 1997 c 27 s 11, & 1996 c 250 s 305;

(17) RCW 19.34.250 (Suspension of certificate—Evidence—Investigation—Notice—Termination—Limitation or preclusion by contract—Misrepresentation—Penalty—Contracts for regional enforcement by agencies—Rules) and 2000 c 171 s 51, 1999 c 287 s 13, 1997 c 27 s 12, & 1996 c 250 s 306;

(18) RCW 19.34.260 (Revocation of certificate—Confirmation—Notice—Release from security duty—Discharge of warranties) and 1997 c 27 s 13 & 1996 c 250 s 307;

(19) RCW 19.34.270 (Certificate—Expiration) and 1996 c 250 s 308;

(20) RCW 19.34.280 (Recommended reliance limit—Liability—Damages) and 1999 c 287 s 14, 1997 c 27 s 14, & 1996 c 250 s 309;

(21) RCW 19.34.290 (Collection based on suitable guaranty—Proceeds—Attorneys' fees—Costs—Notice—Recovery of qualified right of payment) and 1996 c 250 s 310;

(22) RCW 19.34.291 (Discontinuation of certification authority services—Duties of authority—Continuation of guaranty—Process to maintain and update records—Rules—Costs) and 1997 c 27 s 15;

(23) RCW 19.34.300 (Satisfaction of signature requirements) and 1997 c 27 s 16 & 1996 c 250 s 401;

(24) RCW 19.34.305 (Acceptance of digital signature in reasonable manner) and 1997 c 27 s 31;

(25) RCW 19.34.310 (Unreliable digital signatures—Risk) and 1997 c 27 s 17 & 1996 c 250 s 402;

(26) RCW 19.34.311 (Reasonableness of reliance—Factors) and 1997 c 27 s 18;

(27) RCW 19.34.320 (Digital message as written on paper—Requirements—Other requirements not affected—Exception from uniform commercial code) and 1997 c 27 s 19 & 1996 c 250 s 403;

(28) RCW 19.34.321 (Acceptance of certified court documents in electronic form—Requirements—Rules of court on use in proceedings) and 1997 c 27 s 20;

(29) RCW 19.34.330 (Digital message deemed original) and 1999 c 287 s 15 & 1996 c 250 s 404;

(30) RCW 19.34.340 (Certificate as acknowledgment—Requirements—Exception—Responsibility of certification authority) and 2017 c 281 s 38, 1997 c 27 s 21, & 1996 c 250 s 405;

(31) RCW 19.34.350 (Adjudicating disputes—Presumptions) and 1997 c 27 s 22 & 1996 c 250 s 406;

(32) RCW 19.34.351 (Alteration of chapter by agreement—Exceptions) and 1997 c 27 s 34;

(33) RCW 19.34.360 (Presumptions of validity/limitations on liability—Conformance with chapter) and 1999 c 287 s 3;

(34) RCW 19.34.400 (Recognition of repositories—Application—Discontinuance—Procedure) and 1999 c 287 s 16, 1997 c 27 s 23, & 1996 c 250 s 501;

(35) RCW 19.34.410 (Repositories—Liability—Exemptions—Liquidation, limitation, alteration, or exclusion of damages) and 1999 c 287 s 17, 1997 c 27 s 33, & 1996 c 250 s 502;

(36) RCW 19.34.420 (Confidentiality of certain records—Limited access to state auditor) and 2011 1st sp.s. c 43 s 810 & 1998 c 33 s 2;

(37) RCW 19.34.500 (Rule making) and 1997 c 27 s 24 & 1996 c 250 s 603;

(38) RCW 19.34.501 (Chapter supersedes and preempts local actions) and 1997 c 27 s 25;

(39) RCW 19.34.502 (Criminal prosecution not precluded—Remedies not exclusive—Injunctive relief availability) and 1997 c 27 s 26;

(40) RCW 19.34.503 (Jurisdiction, venue, choice of laws) and 1997 c 27 s 27;

(41) RCW 19.34.900 (Short title) and 1996 c 250 s 101;

(42) RCW 19.34.901 (Effective date—1996 c 250) and 2000 c 171 s 52, 1997 c 27 s 28, & 1996 c 250 s 602; and

(43) RCW 43.19.794 (Consolidated technology services agency as certification authority for electronic authentication) and 2015 3rd sp.s. c 1 s 407, 2011 1st sp.s. c 43 s 602, 1999 c 287 s 18, & 1997 c 27 s 29.

Passed by the House March 7, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 133

[House Bill 1913]

### OCCUPATIONAL DISEASE PRESUMPTIONS--VARIOUS PROVISIONS

AN ACT Relating to the presumption of occupational disease for purposes of workers' compensation by adding medical conditions to the presumption, extending the presumption to certain publicly employed firefighters and investigators and law enforcement, addressing the qualifying medical examination, and creating an advisory committee; and amending RCW 51.32.185.

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

**Sec. 1.** RCW 51.32.185 and 2018 c 264 s 3 are each amended to read as follows:

(1)(a) In the case of firefighters as defined in RCW 41.26.030(~~((16))~~) (17) (a), (b), (~~(and)~~) (c), and (h) who are covered under this title and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and public employee fire investigators, there shall exist a prima facie presumption that: (i) Respiratory disease; (ii) any heart problems, experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances, or experienced within twenty-four hours of strenuous physical exertion due to firefighting activities; (iii) cancer; and (iv) infectious diseases are occupational diseases under RCW 51.08.140.

(b) In the case of firefighters as defined in RCW 41.26.030(~~((16))~~) (17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(~~((18))~~) (19) (b), (c), and (e), who are covered under this title, there shall exist a prima facie presumption that posttraumatic stress disorder is an occupational disease under RCW 51.08.140.

(c) In the case of law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e) who are covered under Title 51 RCW, there shall exist a prima facie presumption that: (i) Any heart problems, experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances, or experienced within twenty-four hours of strenuous physical exertion in the line of duty; and (ii) infectious diseases are occupational diseases under RCW 51.08.140.

(d) This presumption of occupational disease established in (a) (~~(and)~~), (b), and (c) of this subsection may be rebutted by a preponderance of the evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(2) The presumptions established in subsection (1) of this section shall be extended to an applicable member following termination of service for a period of three calendar months for each year of requisite service, but may not extend more than sixty months following the last date of employment.

(3)(a) The presumption established in subsection (1)(a)(iii) of this section shall only apply to any active or former firefighter or fire investigator who:

(i) Has cancer that develops or manifests itself after the firefighter or fire investigator has served at least ten years; and ((who))

(ii)(A) Was given a qualifying medical examination upon becoming a firefighter or fire investigator that showed no evidence of cancer; or

(B)(I) For a firefighter or fire investigator who became a firefighter or fire investigator on or after the effective date of this section, the employer did not provide a qualifying medical examination upon becoming a firefighter or fire investigator; or

(II) For a firefighter or fire investigator who became a firefighter or fire investigator before the effective date of this section, the employer did not provide a qualifying medical examination upon becoming a firefighter or fire investigator and the employer provides a qualifying medical examination on or before July 1, 2020. If a firefighter or fire investigator described in this subsection (3)(a)(ii)(B)(II) did not receive a qualifying medical examination before July 1, 2020, or is diagnosed with a cancer listed in (b) of this subsection at the time of the qualifying medical examination under this subsection (3)(a)(ii)(B)(II) and otherwise meets the requirements of this section, the presumption established in subsection (1)(a)(iii) of this section applies. ((The presumption within subsection (1)(a)(iii) of this section shall only apply to))

(b) The presumption established in subsection (1)(a)(iii) of this section shall only apply to the following cancers: Prostate cancer diagnosed prior to the age of fifty, primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, colorectal cancer, multiple myeloma, testicular cancer, ~~((and))~~ kidney cancer, mesothelioma, stomach cancer, nonmelanoma skin cancer, breast cancer in women, and cervical cancer.

(4) The presumption established in subsection (1)(a)(iv) and (c)(ii) of this section shall be extended to any firefighter, fire investigator, or law enforcement officer who has contracted any of the following infectious diseases: Human immunodeficiency virus/acquired immunodeficiency syndrome, all strains of hepatitis, meningococcal meningitis, or mycobacterium tuberculosis.

(5) The presumption established in subsection (1)(b) of this section only applies to active or former firefighters as defined in RCW 41.26.030~~((16))~~ (17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030~~((18))~~ (19) (b), (c), and (e) who have posttraumatic stress disorder that develops or manifests itself after the individual has served at least ten years.

(6) If the employer does not provide the psychological exam as specified in RCW 51.08.142 and the employee otherwise meets the requirements for the presumption established in subsection (1)(b) of this section, the presumption applies.



(7) Beginning July 1, 2003, this section does not apply to a firefighter, fire investigator, or law enforcement officer who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use. The department, using existing medical research, shall define in rule the extent of tobacco use that shall exclude a firefighter, fire investigator, or law enforcement officer from the provisions of this section.

(8) For purposes of this section, "firefighting activities" means fire suppression, fire prevention, fire investigation, emergency medical services, rescue operations, hazardous materials response, aircraft rescue, and training and other assigned duties related to emergency response.

(9)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim for benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorney fees and witness fees, be paid to the firefighter, fire investigator, or law enforcement officer, or his or her beneficiary by the opposing party.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of the appeal, including attorney fees and witness fees, be paid to the firefighter, fire investigator, or law enforcement officer, or his or her beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(10)(a) The director must create an advisory committee on occupational disease presumptions. The purposes of the advisory committee are to review scientific evidence and to make recommendations to the legislature on additional diseases or disorders for inclusion under this section.

(b)(i) The advisory committee shall be composed of five voting members, appointed by the director as follows:

(A) Two epidemiologists;

(B) Two preventive medicine physicians; and

(C) One industrial hygienist.

(ii) The research director of the department's safety and health assessment and research for prevention program shall serve as the advisory committee nonvoting chair.

(iii) Members serve for a term of four years and may be reappointed. Members shall not be compensated for their work on the advisory committee. As a condition of appointment, voting members and the chair must have no past or current financial or personal conflicts of interest related to the advisory committee activities. Voting members of the advisory committee may not be current employees of the department.

(c) The chair or ranking member of the appropriate committee or committees of the legislature may initiate a request for the advisory committee to review scientific evidence and to make recommendations to the legislature on specific disorders or diseases, or specific occupations, for inclusion under this section by notifying the director.

(d) The process of developing an advisory committee recommendation must include a thorough review of the scientific literature on the disease or disorder.

relevant exposures, and strength of the association between the specific occupations and the disease or disorder proposed for inclusion in this section. The advisory committee must give consideration to the relevance, quality, and quantity of the literature and data. The advisory committee may consult nationally recognized experts or subject matter experts in developing its recommendations. The advisory committee must provide a recommendation to the legislature within the earlier of one hundred eighty days of the request or when the advisory committee reaches a consensus recommendation.

(e) Each recommendation must include a written description of the scientific evidence and supporting information relied upon to assess the causal relationship between the occupation and health condition proposed for inclusion under this section. Estimates of the number of Washington workers at risk, the prevalence of the disease or disorder, and the medical treatment and disability costs should, if available, be included with the recommendation.

(f) The recommendation must be made by a majority of advisory committee's voting members. Any member of the advisory committee may provide a written dissent as an appendix to the committee's recommendation.

(g) The department's safety and health assessment and research for prevention program shall provide organizational and scientific support to the advisory committee. Scientific support must include for consideration of the advisory committee preliminary written reviews of the scientific literature on the disease and disorder, relevant exposures, and strength of the association between the specific occupations and the health condition or disorders proposed for inclusion in this section.

Passed by the House March 1, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 134

[Substitute House Bill 1930]

### EXPRESSION OF BREAST MILK IN THE WORKPLACE--REASONABLE ACCOMMODATION

AN ACT Relating to providing reasonable accommodation for the expression of breast milk in the workplace; and amending RCW 43.10.005.

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

**Sec. 1.** RCW 43.10.005 and 2017 c 294 s 3 are each amended to read as follows:

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

(a) "Employer" has the same meaning as and shall be interpreted consistent with how that term is defined in RCW 49.60.040, except that for the purposes of this section only the threshold of employees must be fifteen or more.

(b) "Pregnancy" includes the employee's pregnancy and pregnancy-related health conditions, including the need to express breast milk.

(c) "Reasonable accommodation" means:

(i) Providing more frequent, longer, or flexible restroom breaks;

- (ii) Modifying a no food or drink policy;
- (iii) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;
- (iv) Providing seating or allowing the employee to sit more frequently if her job requires her to stand;
- (v) Providing for a temporary transfer to a less strenuous or less hazardous position;

(vi) Providing assistance with manual labor and limits on lifting;

(vii) Scheduling flexibility for prenatal visits; ~~((and))~~

(viii) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs; and

(ix) Any further pregnancy accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the attending health care provider of the employee.

(d) "Undue hardship" means an action requiring significant difficulty or expense. An employer may not claim undue hardship for the accommodations under (c)(i), (ii), and (iv) of this subsection, or for limits on lifting over seventeen pounds.

(2) It is an unfair practice for any employer to:

(a) Fail or refuse to make reasonable accommodation for an employee for pregnancy, unless the employer can demonstrate that doing so would impose an undue hardship on the employer's program, enterprise, or business;

(b) Take adverse action against an employee who requests, declines, or uses an accommodation under this section that affects the terms, conditions, or privileges of employment;

(c) Deny employment opportunities to an otherwise qualified employee if such denial is based on the employer's need to make reasonable accommodation required by this section;

(d) Require an employee to take leave if another reasonable accommodation can be provided for the employee's pregnancy.

(3) An employer may request that the employee provide written certification from her treating health care professional regarding the need for reasonable accommodation, except for accommodations listed in subsection (1)(d) of this section.

(4)(a) This section does not require an employer to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

(b) This section does not require an employer to discharge any employee, transfer any employee with more seniority, or promote any employee who is not

qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need accommodation.

(5) The department of labor and industries must provide online education materials explaining the respective rights and responsibilities of employers and employees who have a health condition related to pregnancy or childbirth. The online education materials must be prominently displayed on the department's web site.

(6) The attorney general shall investigate complaints and enforce this section, including by conference and conciliation. In addition to the complaint process with the attorney general, any person believed to be injured by a violation of this section has a civil cause of action in court to enjoin further violations, or to recover the actual damages sustained by the person, or both, together with the cost of suit and reasonable attorneys' fees or any other appropriate remedy authorized by state or federal law.

(7) This section does not preempt, limit, diminish, or otherwise affect any other provision of law relating to sex discrimination or pregnancy, or in any way diminish or limit legal protections or coverage for pregnancy, childbirth, or a pregnancy-related health condition.

Passed by the House March 7, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

## CHAPTER 135

[House Bill 1934]

### CONCEALED PISTOL LICENSE RENEWAL--ARMED FORCES

AN ACT Relating to renewal of a concealed pistol license by members of the armed forces; and reenacting and amending RCW 9.41.070.

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

**Sec. 1.** RCW 9.41.070 and 2018 c 226 s 2 and 2018 c 201 s 6002 are each reenacted and amended to read as follows:

(1) The chief of police of a municipality or the sheriff of a county shall within thirty days after the filing of an application of any person, issue a license to such person to carry a pistol concealed on his or her person within this state for five years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045, or is prohibited from possessing a firearm under federal law;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to chapter((s)) 7.90, 7.92, or 7.94 RCW, or RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, (~~26.26.130~~) 26.26B.020, 26.50.060, 26.50.070, or 26.26.590;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2)(a) The issuing authority shall conduct a check through the national instant criminal background check system, the Washington state patrol electronic database, the health care authority electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm, or is prohibited from possessing a firearm under federal law, and therefore ineligible for a concealed pistol license.

(b) The issuing authority shall deny a permit to anyone who is found to be prohibited from possessing a firearm under federal or state law.

(c) This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the attorney general under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, email address at the option of the applicant, date and place of birth, race, gender, description, a complete set of fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include a complete set of fingerprints to be forwarded to the Washington state patrol.

The license and application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by

federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The application shall contain questions about the applicant's eligibility under RCW 9.41.040 and federal law to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. If the applicant is not a United States citizen, the applicant must provide the applicant's country of citizenship, United States issued alien number or admission number, and the basis on which the applicant claims to be exempt from federal prohibitions on firearm possession by aliens. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall, if applicable, meet the additional requirements of RCW 9.41.173 and produce proof of compliance with RCW 9.41.173 upon application. The license may be in triplicate or in a form to be prescribed by the department of licensing.

A photograph of the applicant may be required as part of the application and printed on the face of the license.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the federal bureau of investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Four dollars shall be paid to the agency taking the fingerprints of the person licensed;
- (c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;
- (d) Two dollars and sixteen cents to the firearms range account in the general fund; and
- (e) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

(6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
- (b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter;

(c) Two dollars and sixteen cents to the firearms range account in the general fund; and

(d) Eighty-four cents to the concealed pistol license renewal notification account created in RCW 43.79.540.

(7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) Payment shall be by cash, check, or money order at the option of the applicant. Additional methods of payment may be allowed at the option of the issuing authority.

(9)(a) A licensee may renew a license if the licensee applies for renewal within ninety days before or after the expiration date of the license. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license must pay a late renewal penalty of ten dollars in addition to the renewal fee specified in subsection (6) of this section. The fee shall be distributed as follows:

(i) Three dollars shall be deposited in the state wildlife account and used exclusively first for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. The pamphlet shall be given to each applicant for a license; and

(ii) Seven dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

(b) Beginning with concealed pistol licenses that expire on or after August 1, 2018, the department of licensing shall mail a renewal notice approximately ninety days before the license expiration date to the licensee at the address listed on the concealed pistol license application, or to the licensee's new address if the licensee has notified the department of licensing of a change of address. Alternatively, if the licensee provides an email address at the time of license application, the department of licensing may send the renewal notice to the licensee's email address. The notice must contain the date the concealed pistol license will expire, the amount of renewal fee, the penalty for late renewal, and instructions on how to renew the license.

(10) Notwithstanding the requirements of subsections (1) through (9) of this section, the chief of police of the municipality or the sheriff of the county of the applicant's residence may issue a temporary emergency license for good cause pending review under subsection (1) of this section. However, a temporary emergency license issued under this subsection shall not exempt the holder of the license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

(14) Any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment, reassignment, or deployment for out-of-state military service may renew his or her license within ninety days after the person returns to this state from out-of-state military service, if the person provides the following to the issuing authority no later than ninety days after the person's date of discharge or assignment, reassignment, or deployment back to this state: (a) A copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service, and (b) if appropriate, a copy of the person's discharge or amended or subsequent assignment, reassignment, or deployment order back to this state. A license so renewed under this subsection (14) shall take effect on the expiration date of the prior license. A licensee renewing after the expiration date of the license under this subsection (14) shall pay only the renewal fee specified in subsection (6) of this section and shall not be required to pay a late renewal penalty in addition to the renewal fee.

(15)(a) By October 1, 2019, law enforcement agencies that issue concealed pistol licenses shall develop and implement a procedure for the renewal of concealed pistol licenses through a mail application process, and may develop an online renewal application process, for any person who, as a member of the armed forces, including the national guard and armed forces reserves, is unable to renew his or her license under subsections (6) and (9) of this section because of the person's assignment, reassignment, or deployment for out-of-state military service.

(b) A person applying for a license renewal under this subsection shall:

(i) Provide a copy of the person's original order designating the specific period of assignment, reassignment, or deployment for out-of-state military service;

(ii) Apply for renewal within ninety days before or after the expiration date of the license; and

(iii) Pay the renewal licensing fee under subsection (6) of this section, and, if applicable, the late renewal penalty under subsection (9) of this section.

(c) A license renewed under this subsection takes effect on the expiration date of the prior license and is valid for a period of one year.

Passed by the House March 6, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.



## CHAPTER 136

[House Bill 1980]

## FEDERAL TAX LIEN DOCUMENTS--RECORDING SURCHARGE EXEMPTION

AN ACT Relating to exempting federal tax lien documents from recording surcharges; and amending RCW 36.22.178, 36.22.179, and 36.22.1791.

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

**Sec. 1.** RCW 36.22.178 and 2018 c 66 s 5 are each amended to read as follows:

The surcharge provided for in this section shall be named the affordable housing for all surcharge.

(1) Except as provided in subsection (3) of this section, a surcharge of thirteen dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The county may retain up to five percent of these funds collected solely for the collection, administration, and local distribution of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit: (a) The portion of the funds attributable to ten dollars of the surcharge into the affordable housing for all account created in RCW 43.185C.190. The department of commerce must use these funds to provide housing and shelter for extremely low-income households, including but not limited to housing for victims of human trafficking and their families and grants for building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income households with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses; and (b) the portion of the funds attributable to three dollars of the surcharge into the landlord mitigation program account created in RCW 43.31.615.

(2) All of the remaining funds generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for eligible housing activities as described in this subsection that serve very low-income households with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to eligible housing activities that serve extremely low and very low-income households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below thirty percent of the area median income. Eligible housing activities to be funded by these county funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income households with incomes at or below fifty percent of the area median income, including units for homeownership, rental units, seasonal and permanent farmworker housing units, units reserved for victims of human trafficking and their families, and single room occupancy units;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds,

that are affordable to very low-income households with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing units that are affordable to very low-income households with incomes at or below fifty percent of the area median income, including rental housing vouchers for victims of human trafficking and their families, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

(3) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust or to documents recording a federal lien or satisfaction of lien.

**Sec. 2.** RCW 36.22.179 and 2018 c 85 s 2 are each amended to read as follows:

(1) In addition to the surcharge authorized in RCW 36.22.178, and except as provided in subsection (3) of this section, an additional surcharge of sixty-two dollars shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. Except as provided in subsection (4) of this section, the funds collected pursuant to this section are to be distributed and used as follows:

(a) The auditor shall retain two percent for collection of the fee, and of the remainder shall remit sixty percent to the county to be deposited into a fund that must be used by the county and its cities and towns to accomplish the purposes of chapter 484, Laws of 2005, six percent of which may be used by the county for the collection and local distribution of these funds and administrative costs related to its homeless housing plan, and the remainder for programs which directly accomplish the goals of the county's local homeless housing plan, except that for each city in the county which elects as authorized in RCW 43.185C.080 to operate its own local homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local homeless housing plan; of the funds received by the city, it may use six percent for administrative costs for its homeless housing program.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the home security fund account to be used as follows:

(i) The department may use twelve and one-half percent of this amount for administration of the program established in RCW 43.185C.020, including the costs of creating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program.

(ii) The remaining eighty-seven and one-half percent of this amount must be used as follows:

(A) At least forty-five percent must be set aside for the use of private rental housing payments; and

(B) All remaining funds are to be used by the department to:

(I) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; grants and vouchers designated for victims of human trafficking and their families; and emergency shelter assistance; and

(II) Fund the homeless housing grant program.

(2) A county issuing general obligation bonds pursuant to RCW 36.67.010, to carry out the purposes of subsection (1)(a) of this section, may provide that such bonds be made payable from any surcharge provided for in subsection (1)(a) of this section and may pledge such surcharges to the repayment of the bonds.

(3) The surcharge imposed in this section does not apply to (a) assignments or substitutions of previously recorded deeds of trust, (b) documents recording a birth, marriage, divorce, or death, (c) any recorded documents otherwise exempted from a recording fee or additional surcharges under state law, (d) marriage licenses issued by the county auditor, or (e) documents recording a federal, state, county, or city lien or satisfaction of lien.

(4) Ten dollars of the surcharge imposed under subsection (1) of this section must be distributed to the counties to carry out the purposes of subsection (1)(a) of this section.

(5) For purposes of this section, "private rental housing" means housing owned by a private landlord and includes housing owned by a nonprofit housing entity.

**Sec. 3.** RCW 36.22.1791 and 2011 c 110 s 3 are each amended to read as follows:

(1) In addition to the surcharges authorized in RCW 36.22.178 and 36.22.179, and except as provided in subsection (2) of this section, the county auditor shall charge an additional surcharge of eight dollars for each document recorded, which is in addition to any other charge allowed by law. The funds collected under this section are to be distributed and used as follows:

(a) The auditor shall remit ninety percent to the county to be deposited into a fund six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs that directly accomplish the goals of the county's local homeless housing plan, except that for each city in the county that elects, as authorized in RCW 43.185C.080, to operate its own local homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county must be transmitted at least quarterly to the city treasurer for use by the city for program costs that directly contribute to the goals of the city's local homeless housing plan.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the home security fund account. The department may use the funds for administering the program established in RCW 43.185C.020, including the costs of creating and updating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments,

and managing the homeless housing grant program. Remaining funds may also be used to:

(i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; grants and vouchers designated for victims of human trafficking and their families; and emergency shelter assistance; and

(ii) Fund the homeless housing grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust or to documents recording a federal lien or satisfaction of lien.

Passed by the House March 5, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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**CHAPTER 137**

[Engrossed Substitute House Bill 1994]

**TRANSPORTATION PROJECTS OF STATEWIDE SIGNIFICANCE**

AN ACT Relating to facilitating transportation projects of statewide significance; adding new sections to chapter 47.05 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that Washington's transportation needs are increasing as both a surge in trade and population create demand on the system. Large transportation projects that provide improvements in accessibility, freight mobility, and safety, as well as maximize economic development, are critical to Washington's future. It is the intent of the legislature to recognize transportation projects of statewide significance, and to expedite their completion through the establishment of a formal process of coordination.

NEW SECTION. Sec. 2. A new section is added to chapter 47.05 RCW to read as follows:

(1) A transportation project of statewide significance means a project that will:

(a) Improve accessibility for a significant number of Washington residents;

(b) Alleviate congestion and improve the reliability of travel times for Washington residents and other users of the transportation system;

(c) Improve the movement of freight through the corridor;

(d) Provide safety improvements and contribute to a reduction in injuries and fatalities;

(e) Maximize opportunities for economic development in the region and the state;

(f) Make improvement to transit, pedestrian, and bike access; and

(g) Serve as a critical route for both national and state defense.

(2)(a) In order to qualify as a transportation project of statewide significance, the reasonable cost estimate to construct the project must be at least one billion dollars. Similarly, if a project is to be constructed in phases, in order

to qualify as a transportation project of statewide significance, the total reasonable cost estimate to construct all the phases must be at least one billion dollars. For purposes of this subsection, "cost estimate to construct" includes costs associated with design, preliminary engineering, right-of-way acquisition, and construction.

(b) In order to qualify as a transportation project of statewide significance, the project must also contain a bridge that connects two states that has a reasonable cost estimate to construct of at least five hundred million dollars and would benefit from an expedited permitting process due to preexisting permits.

NEW SECTION. Sec. 3. A new section is added to chapter 47.05 RCW to read as follows:

(1) The department shall:

(a) Develop an application for designation of transportation projects as transportation projects of statewide significance. The application must be accompanied by a letter of approval from the legislative authority of at least one jurisdiction that will have the proposed transportation project of statewide significance within its boundaries. No designation of a project as a transportation project of statewide significance shall be made without the letter of approval, except as provided in subsection (2) of this section. The letter of approval must state that the jurisdiction joins in the request for the designation of the transportation project as one of statewide significance and has or will hire the professional staff that will be required to expedite the processes necessary to the completion of a transportation project of statewide significance. The transportation project proponents may provide the funding necessary for the jurisdiction to hire the professional staff that will be required to so expedite. The application must contain information regarding the location of the project, how the project meets the criteria specified in section 2 of this act, and other information required by the department; and

(b) Designate a transportation project as a transportation project of statewide significance if the department determines, after review of the application under criteria adopted by rule, the transportation project will meet the criteria listed in section 2 (1) and (2) of this act.

(2) Any project designated by the legislature and codified in this chapter is not subject to the application requirements set out in subsection (1) of this section. However, the project is subject to the coordination process in subsection (3) of this section.

(3) The department shall assign a project facilitator or coordinator to each transportation project of statewide significance to:

(a) Assemble a team of state and local government and private officials to help meet the planning, permitting, and development needs of each project. The team must include those responsible for planning, permitting, and licensing, infrastructure development, workforce development services, transportation services, and the provision of utilities; and

(b) Work with each team member to expedite their actions in furtherance of the project and coordinate any cross border communications, if applicable.

Passed by the House March 12, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 138

[Substitute House Bill 2044]

### PARK AND RECREATION DISTRICTS AND METROPOLITAN PARK DISTRICTS-- DEANNEXATION

AN ACT Relating to the deannexation of a portion of land from a park and recreation district or metropolitan park district; amending RCW 36.69.310 and 35.61.310; adding a new section to chapter 36.69 RCW; and adding a new section to chapter 35.61 RCW.

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

**Sec. 1.** RCW 36.69.310 and 2005 c 226 s 3 are each amended to read as follows:

(1)(a) Any park and recreation district formed under the provisions of this chapter may be dissolved in its entirety in the manner provided in chapter 53.48 RCW, relating to port districts.

(b) In order to facilitate the dissolution of a park and recreation district, such a district may declare its intent to dissolve and may name a successor taxing district. It may transfer any lands, facilities, equipment, other interests in real or personal property, or interests under contracts, leases, or similar agreements to the successor district, and may take all action necessary to enable the successor district to assume any indebtedness of the park and recreation district relating to the transferred property and interests.

(2) A portion of land may be deannexed and withdrawn from a park and recreation district formed under the provisions of this chapter pursuant to section 2 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.69 RCW to read as follows:

(1) As provided in this section, a city, town, or county may withdraw that portion of the city, town, or county from a park and recreation district that was formed under this chapter when:

(a) The governing body of a district, which is part of the district, adopts a resolution and findings of fact supporting the deannexation of that portion of the city, town, or county, which is part of the district; and the governing body of a city, town, or county, which is part of the district, adopts a resolution and findings of fact supporting the deannexation of that portion of the city, town, or county, which is part of the district;

(b) Ten percent of the voters of such city or county who voted at the last general election petition the governing officials for such a vote; or

(c) A district located in a county with a population of two hundred ten thousand or more has not actively carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period, in accordance with chapter 57.90 RCW.

(2)(a) After adoption of the resolution approving the deannexation, receipt of a valid petition signed by the requisite number of registered voters, or determination that the district has been inactive in accordance with chapter 57.90 RCW, the governing body of the city, town, or county, which is part of the district, must draft a ballot title, give notice as required by law for ballot

measures, and perform other duties as required to put the measure approving or not approving the deannexation before the voters of the city, town, or county, which is part of the district.

(b) The ballot proposition authorizing the deannexation from a proposed park and recreation district must be submitted to the voters of the district for their approval or rejection at the next general election. The ballot measure is approved if greater than fifty percent of the total persons voting on the ballot measure vote to approve the deannexation.

(3) The resolution under subsection (1) of this section and the ballot under subsection (2) of this section must set forth the specific land boundaries being deannexed from the district.

(4) A deannexation under this section is effective at the end of the day on the thirty-first day of December in the year in which the ballot measure under subsection (2) of this section is approved.

(5) The withdrawal of an area from the boundaries of a park and recreation district does not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the park and recreation district existing at the time of the withdrawal.

(6)(a) An area that has been withdrawn from the boundaries of a park and recreation district under this section may be reannexed into the park and recreation district upon:

(i) Adoption of a resolution by the governing body proposing the reannexation; and

(ii) Adoption of a resolution by the park and recreation district approving the reannexation.

(b) The reannexation is effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries are established immediately upon the adoption of the second resolution.

(c) Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the park and recreation district, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

(d) If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions must be held in abeyance and a ballot proposition to authorize the reannexation must be submitted to the voters of the area at the next special election date according to RCW 29A.04.330. Approval of the ballot proposition authorizing the reannexation by a simple majority vote authorizes the reannexation.

(7) For purposes of this section, "deannex" means to withdraw a specified portion of land from a park and recreation district formed under this chapter.

**Sec. 3.** RCW 35.61.310 and 1965 c 7 s 35.61.310 are each amended to read as follows:

A board of commissioners of a metropolitan park district may, upon a majority vote of all its members, dissolve in its entirety any metropolitan park

district, prorate the liabilities thereof, and turn over to the city and/or county so much of the district as is respectively located therein, when:

(1) Such city and/or county, through its governing officials, agrees to, and petitions for, such dissolution and the assumption of such assets and liabilities((?)); or((?))

(2) Ten percent of the voters of such city and/or county who voted at the last general election petition the governing officials for such a vote.

NEW SECTION. **Sec. 4.** A new section is added to chapter 35.61 RCW to read as follows:

(1) As provided in this section, a city, town, or county may withdraw that portion of the city, town, or county from a metropolitan park district that was formed under this chapter when:

(a) The governing body of a district, which is part of the district, adopts a resolution and findings of fact supporting the deannexation of that portion of the city, town, or county, which is part of the district; and the governing body of a city, town, or county, which is part of the district, adopts a resolution and findings of fact supporting the deannexation of that portion of the city, town, or county, which is part of the district;

(b) Ten percent of the voters of such city or county who voted at the last general election petition the governing officials for such a vote; or

(c) A district located in a county with a population of two hundred ten thousand or more has not actively carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period.

(2)(a) After adoption of the resolution approving the deannexation, receipt of a valid petition signed by the requisite number of registered voters, or determination that the district has been inactive, the governing body of the city, town, or county, which is part of the district, must draft a ballot title, give notice as required by law for ballot measures, and perform other duties as required to put the measure approving or not approving the deannexation before the voters of the city, town, or county, which is part of the district.

(b) The ballot proposition authorizing the deannexation from a proposed metropolitan park district must be submitted to the voters of the district for their approval or rejection at the next general election. The ballot measure is approved if greater than fifty percent of the total persons voting on the ballot measure vote to approve the deannexation.

(3) The resolution under subsection (1) of this section and the ballot under subsection (2) of this section must set forth the specific land boundaries being deannexed from the district.

(4) A deannexation under this section is effective at the end of the day on the thirty-first day of December in the year in which the ballot measure under subsection (2) of this section is approved.

(5) The withdrawal of an area from the boundaries of a metropolitan park district does not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the metropolitan park district existing at the time of the withdrawal.

(6)(a) An area that has been withdrawn from the boundaries of a metropolitan park district under this section may be reannexed into the metropolitan park district upon:



(i) Adoption of a resolution by the governing body proposing the reannexation; and

(ii) Adoption of a resolution by the metropolitan park district approving the reannexation.

(b) The reannexation is effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries are established immediately upon the adoption of the second resolution.

(c) Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the metropolitan park district, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

(d) If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions must be held in abeyance and a ballot proposition to authorize the reannexation must be submitted to the voters of the area at the next special election date according to RCW 29A.04.330. Approval of the ballot proposition authorizing the reannexation by a simple majority vote authorizes the reannexation.

(f) For purposes of this section, "deannex" means to withdraw a specified portion of land from a metropolitan park district formed under this chapter.

Passed by the House March 4, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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## CHAPTER 139

[House Bill 2058]

### PURPLE HEART LICENSE PLATES--FEE AND TAX EXEMPTION

AN ACT Relating to Purple Heart license plates; and amending RCW 46.18.280.

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

**Sec. 1.** RCW 46.18.280 and 2016 c 31 s 1 are each amended to read as follows:

(1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on a motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;

(c) Have received an honorable discharge from the United States armed forces;

(d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal; and

(e) Be recorded as the registered owner of the motor vehicle on which the Purple Heart license plate or plates will be displayed(~~(; and~~

~~(f) Pay all fees and taxes required by law for registering the motor vehicle)).~~

(2) Purple Heart license plates must be issued without the payment of any vehicle license fees, license plate fees, motor vehicle excise taxes, and special license plate fees for one motor vehicle. For other motor vehicles, qualified applicants may purchase Purple Heart license plates for the fee required under RCW 46.17.220((+)(p)) (17) and all other fees and taxes required by law for registering the motor vehicle.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) A Purple Heart license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

Passed by the House March 13, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 24, 2019.

Filed in Office of Secretary of State April 25, 2019.

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**CHAPTER 140**

[Senate Bill 5000]

VETERINARIANS AND VETERINARIAN TECHNICIANS--ACCESS TO HEALTH CARE RESOURCES

AN ACT Relating to online access to health care resources for veterinarians and veterinary technicians; and amending RCW 43.70.110.

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

**Sec. 1.** RCW 43.70.110 and 2015 c 77 s 1 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. ~~((After June 30, 1995,))~~ Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and occupational therapy assistants licensed under chapter 18.59 RCW, dietitians and nutritionists certified under chapter 18.138 RCW, speech-language pathologists licensed under chapter 18.35 RCW, ~~(and)~~ East Asian medicine practitioners licensed under chapter 18.06 RCW, and veterinarians and veterinary technicians licensed under chapter 18.92 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Passed by the Senate February 26, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 141

[Substitute Senate Bill 5003]

### SHAREHOLDER RIGHTS--BUSINESS CORPORATIONS--LIMITATIONS

AN ACT Relating to Washington's business corporation act; amending RCW 23B.06.300, 23B.07.280, 23B.10.205, 23B.01.400, 23B.12.010, and 23B.12.020; and reenacting and amending RCW 23B.02.020.

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

**Sec. 1.** RCW 23B.02.020 and 2015 c 176 s 2112 and 2015 c 20 s 2 are each reenacted and amended to read as follows:

(1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of Article 3 of chapter 23.95 RCW;

(b) The number of shares the corporation is authorized to issue in accordance with RCW 23B.06.010 and 23B.06.020;

(c) The name and address of its initial registered agent designated in accordance with Article 4 of chapter 23.95 RCW; and

(d) The name and address of each incorporator in accordance with RCW 23B.02.010.

(2) The articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed, unless the articles of incorporation dispense with a board of directors pursuant to RCW 23B.08.010.

(3) Unless its articles of incorporation provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may adopt bylaws to be effective only in an emergency as provided by RCW 23B.02.070;

(b) A corporation has the purpose of engaging in any lawful business under RCW 23B.03.010;

(c) A corporation has perpetual existence and succession in its corporate name under RCW 23B.03.020;

(d) A corporation has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including itemized powers under RCW 23B.03.020;

(e) All shares are of one class and one series, have unlimited voting rights, and are entitled to receive the net assets of the corporation upon dissolution under RCW 23B.06.010 and 23B.06.020;

(f) If more than one class of shares is authorized, all shares of a class must have preferences, limitations, and relative rights identical to those of other shares of the same class under RCW 23B.06.010;

(g) If the board of directors is authorized to designate the number of shares in a series, the board may, after the issuance of shares in that series, reduce the number of authorized shares of that series under RCW 23B.06.020;

(h) The board of directors must approve any issuance of shares under RCW 23B.06.210;

(i) Shares may be issued pro rata and without consideration to shareholders under RCW 23B.06.230;

(j) Shares of one class or series may not be issued as a share dividend with respect to another class or series, unless there are no outstanding shares of the class or series to be issued, or a majority of votes entitled to be cast by such class or series approve as provided in RCW 23B.06.230;

(k) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation under RCW 23B.06.240;

(l) A shareholder of a corporation formed on or after January 1, 2020, has no preemptive right to acquire the corporation's unissued shares, and a shareholder of a corporation formed before January 1, 2020, has, and may waive, a

preemptive right to acquire the corporation's unissued shares as provided in RCW 23B.06.300;

(m) Shares of a corporation acquired by it may be reissued under RCW 23B.06.310;

(n) The board may authorize and the corporation may make distributions not prohibited by statute under RCW 23B.06.400;

(o) The preferential rights upon dissolution of certain shareholders will be considered a liability for purposes of determining the validity of a distribution under RCW 23B.06.400;

(p) Corporate action may be approved by shareholders by unanimous consent of all shareholders entitled to vote on the corporate action, unless the approval of a lesser number of shareholders is permitted as provided in RCW 23B.07.040, which shareholder consent shall be in the form of a record;

(q) Unless this title requires otherwise, the corporation is required to give notice only to shareholders entitled to vote at a meeting and the notice for an annual meeting need not include the purpose for which the meeting is called under RCW 23B.07.050;

(r) A corporation that is a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(s) Subject to statutory exceptions, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting under RCW 23B.07.210;

(t) A majority of the votes entitled to be cast on a matter by a voting group constitutes a quorum, unless the title provides otherwise under RCW 23B.07.250 and 23B.07.270;

(u) Corporate action on a matter, other than election of directors, by a voting group is approved if the votes cast within the voting group favoring the corporate action exceed the votes cast opposing the corporate action, unless this title requires a greater number of affirmative votes under RCW 23B.07.250;

(v) All shares of one or more classes or series that are entitled to vote will be counted together collectively on any matter at a meeting of shareholders under RCW 23B.07.260;

(w) ~~((Directors are elected by cumulative voting))~~ Shareholders of a corporation formed on or after January 1, 2020, do not have a right to cumulate their votes for directors, and shareholders of a corporation formed before January 1, 2020, have a right to cumulate their votes for directors under RCW 23B.07.280;

(x) Directors are elected by a plurality of votes cast by shares entitled to vote under RCW 23B.07.280, except as otherwise provided in the articles of incorporation or a bylaw adopted pursuant to RCW 23B.10.205;

(y) A corporation must have a board of directors under RCW 23B.08.010;

(z) All corporate powers must be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors under RCW 23B.08.010;

(aa) The shareholders may remove one or more directors with or without cause under RCW 23B.08.080;

(bb) A vacancy on the board of directors may be filled by the shareholders or the board of directors under RCW 23B.08.100;

(cc) A corporation shall indemnify a director who was wholly successful in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding under RCW 23B.08.520;

(dd) A director of a corporation who is a party to a proceeding may apply for indemnification of reasonable expenses incurred by the director in connection with the proceeding to the court conducting the proceeding or to another court of competent jurisdiction under RCW 23B.08.540;

(ee) An officer of the corporation who is not a director is entitled to mandatory indemnification under RCW 23B.08.520, and is entitled to apply for court-ordered indemnification under RCW 23B.08.540, in each case to the same extent as a director under RCW 23B.08.570;

(ff) The corporation may indemnify and advance expenses to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director under RCW 23B.08.570;

(gg) A corporation may indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that may be provided by its articles of incorporation, bylaws, general or specific approval of its board of directors, or contract under RCW 23B.08.570;

(hh) A corporation's board of directors may adopt certain amendments to the corporation's articles of incorporation without shareholder approval under RCW 23B.10.020;

(ii) Unless this title or the board of directors requires a greater vote or a vote by voting groups, an amendment to the corporation's articles of incorporation must be approved by each voting group entitled to vote on the proposed amendment by two-thirds, or, in the case of a public company, a majority, of all the votes entitled to be cast by that voting group under RCW 23B.10.030;

(jj) A corporation's board of directors may amend or repeal the corporation's bylaws unless this title reserves this power exclusively to the shareholders in whole or in part, or unless the shareholders in amending or repealing a bylaw provide expressly that the board of directors may not amend or repeal that bylaw under RCW 23B.10.200;

(kk) Unless this title or the board of directors require a greater vote or a vote by voting groups, a plan of merger or share exchange must be approved by each voting group entitled to vote on the merger or share exchange by two-thirds of all the votes entitled to be cast by that voting group under RCW 23B.11.030;

(ll) Approval by the shareholders of the sale, lease, exchange, or other disposition of all, or substantially all, the corporation's property in the usual and regular course of business is not required under RCW 23B.12.010;

(mm) Approval by the shareholders of the mortgage, pledge, dedication to the repayment of indebtedness, or other encumbrance of any or all of the corporation's property, whether or not in the usual and regular course of business, is not required under RCW 23B.12.010;

(nn) Unless the board of directors requires a greater vote or a vote by voting groups, a sale, lease, exchange, or other disposition of all or substantially all of the corporation's property, other than in the usual and regular course of business,

must be approved by each voting group entitled to vote on such transaction by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.12.020; and

(oo) Unless the board of directors requires a greater vote or a vote by voting groups, a proposal to dissolve must be approved by each voting group entitled to vote on the dissolution by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.14.020.

(4) Unless its articles of incorporation or its bylaws provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may approve the issuance of some or all of the shares of any or all of the corporation's classes or series without certificates under RCW 23B.06.260;

(b) A corporation that is not a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(c) A director need not be a resident of this state or a shareholder of the corporation under RCW 23B.08.020;

(d) The board of directors may fix the compensation of directors under RCW 23B.08.110;

(e) Members of the board of directors may participate in a meeting of the board by any means of similar communication by which all directors participating can hear each other during the meeting under RCW 23B.08.200;

(f) Corporate action permitted or required by this title to be taken at a board of directors' meeting may be approved without a meeting if approved by all members of the board under RCW 23B.08.210;

(g) Regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting under RCW 23B.08.220;

(h) Special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting, and the notice need not describe the purpose of the special meeting under RCW 23B.08.220;

(i) A quorum of a board of directors consists of a majority of the number of directors under RCW 23B.08.240;

(j) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors under RCW 23B.08.240;

(k) A board of directors may create one or more committees and appoint members of the board of directors to serve on them under RCW 23B.08.250; and

(l) Unless approved by the shareholders, a corporation may indemnify, or make advances to, a director for reasonable expenses incurred in the defense of any proceeding to which the director was a party because of being a director only to the extent such action is consistent with RCW 23B.08.500 through 23B.08.580.

(5) The articles of incorporation may contain the following provisions:

(a) The names and addresses of the individuals who are to serve as initial directors;

(b) The par value of any authorized shares or classes of shares;

(c) Provisions not inconsistent with law related to the management of the business and the regulation of the affairs of the corporation;

(d) Any provision that under this title is required or permitted to be set forth in the bylaws;

(e) Provisions not inconsistent with law defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

(f) Provisions authorizing corporate action to be approved by consent of less than all of the shareholders entitled to vote on the corporate action, in accordance with RCW 23B.07.040;

(g) If the articles of incorporation authorize dividing shares into classes, the election of all or a specified number of directors may be effected by the holders of one or more authorized classes of shares under RCW 23B.08.040;

(h) The terms of directors may be staggered under RCW 23B.08.060;

(i) Shares may be redeemable or convertible (i) at the option of the corporation, the shareholder, or another person, or upon the occurrence of a designated event; (ii) for cash, indebtedness, securities, or other property; or (iii) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events under RCW 23B.06.010;

(j) A director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director may be eliminated or limited under RCW 23B.08.320; and

(k) A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, prior to the pursuit or taking of the opportunity by the director or other person. However, if such provision applies to an officer or related person (as such term is defined in RCW 23B.08.700) of an officer, the board of directors, by action of qualified directors taken in compliance with the same procedures as are set forth in RCW 23B.08.720 and taken subsequent to the inclusion of such provision in the articles of incorporation, (i) must approve the application of such provision to an officer or a related person of that officer, and (ii) may condition the application of such provision to such officer or related person of that officer on any basis.

(6) The articles of incorporation or the bylaws may contain the following provisions:

(a) A restriction on the transfer or registration of transfer of the corporation's shares under RCW 23B.06.270;

(b) Shareholders may participate in a meeting of shareholders by any means of communication by which all persons participating in the meeting can hear each other under RCW 23B.07.080;

(c) A quorum of the board of directors may consist of as few as one-third of the number of directors under RCW 23B.08.240;

(d) If the corporation is registered as an investment company under the investment company act of 1940, a provision limiting the requirement to hold an annual meeting of shareholders as provided in RCW 23B.07.010(2); and

(e) If the corporation is registered as an investment company under the investment company act of 1940, a provision establishing terms of directors which terms may be longer than one year as provided in RCW 23B.05.050.

(7) The articles of incorporation need not set forth any of the corporate powers enumerated in this title.



**Sec. 2.** RCW 23B.06.300 and 2002 c 297 s 19 are each amended to read as follows:

(1) The shareholders of a corporation do not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation provide otherwise or as set forth in subsection (2) of this section. A statement included in the articles of incorporation that "the corporation elects to have preemptive rights," or words of similar import, means that the provisions set forth in subsection (3) of this section apply except to the extent that the articles of incorporation provide otherwise.

(2) Unless the articles of incorporation provide otherwise, the shareholders of a corporation formed before January 1, 2020, have a preemptive right to acquire the corporation's unissued shares.

(3) If shareholders of a corporation have a preemptive right to acquire the corporation's unissued shares under this section, the following provisions apply:

(a) Unless the articles of incorporation provide otherwise, ~~((and subject to the limitations in subsections (3) and (4) of this section, the shareholders of a corporation have a))~~ such preemptive right ~~((;))~~ is granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

~~((2))~~ (b) Unless the articles of incorporation provide otherwise, a shareholder may waive the shareholder's preemptive right. A waiver evidenced by an executed record is irrevocable even though it is not supported by consideration.

~~((3))~~ (c) Unless the articles of incorporation provide otherwise, there is no preemptive right with respect to:

~~((a))~~ (i) Shares issued as compensation to directors, officers, agents, ~~((or))~~ employees, or other service providers of the corporation, or its subsidiaries or affiliates;

~~((b))~~ (ii) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, or its subsidiaries or affiliates;

~~((c))~~ (iii) Shares issued pursuant to the corporation's initial plan of financing; and

~~((d))~~ (iv) Shares ~~((sold otherwise than for))~~ issued for consideration other than money.

~~((4))~~ (d) Unless the articles of incorporation provide otherwise:

~~((a))~~ (i) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class; and

~~((b))~~ (ii) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

~~((5))~~ (e) Unless the articles of incorporation provide otherwise, shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a

consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

~~((6))~~ (f) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

**Sec. 3.** RCW 23B.07.280 and 2009 c 189 s 21 are each amended to read as follows:

(1) Shareholders do not have a right to cumulate their votes for directors unless the articles of incorporation provide otherwise or as set forth in subsection (2) of this section. A statement included in the articles of incorporation that "[all] [a designated voting group of] shareholders are entitled to cumulate their votes for directors," or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and to cast the product for a single candidate or distribute the product among two or more candidates.

(2) With respect to a corporation formed before January 1, 2020, unless otherwise provided in the articles of incorporation, shareholders entitled to vote at any election of directors are entitled to cumulate votes by multiplying the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and to cast the product for a single candidate or distribute the product among two or more candidates.

~~((2))~~ (3) Shares otherwise entitled to vote cumulatively may not be voted cumulatively at a particular meeting unless:

(a) The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or

(b) A shareholder who has the right to cumulate the shareholder's votes gives notice to the corporation not less than seventy-two hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting, and if one shareholder gives this notice all other shareholders in the same voting group participating in the election are entitled to cumulate their votes without giving further notice.

(4) Unless otherwise provided in the articles of incorporation or in a bylaw adopted under RCW 23B.10.205, in any election of directors the candidates elected are those receiving the largest numbers of votes cast by the shares entitled to vote in the election, up to the number of directors to be elected by such shares.

**Sec. 4.** RCW 23B.10.205 and 2009 c 189 s 36 are each amended to read as follows:

(1) Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section~~((7))~~ or alter the vote specified in RCW 23B.07.280~~((2))~~ (4), or ~~((allow for or do not exclude))~~ cumulative voting is authorized, a public company may elect in its bylaws to be governed in the election of directors as follows:

(a) Each vote entitled to be cast may be voted for, voted against, or withheld for one or more candidates up to that number of candidates that is equal to the

number of directors to be elected but without cumulating the votes, or a shareholder may indicate an abstention for one or more candidates;

(b) To be elected, a candidate must have received the number, percentage, or level of votes specified in the bylaws; provided that holders of shares entitled to vote in the election and constituting a quorum are present at the meeting. Except in a contested election as provided in (e) of this subsection, a candidate who does not receive the number, percentage, or level of votes specified in the bylaws but who was a director at the time of the election shall continue to serve as a director for a term that shall terminate on the date that is the earlier of (i) the date specified in the bylaw, but not longer than ninety days from the date on which the voting results are determined pursuant to RCW 23B.07.035(2), or (ii) the date on which an individual is selected by the board of directors to fill the office held by such director, which selection shall be deemed to constitute the filling of a vacancy by the board to which RCW 23B.08.100 applies;

(c) A bylaw adopted pursuant to this section may provide that votes cast against and/or withheld as to a candidate are to be taken into account in determining whether the number, percentage, or level of votes required for election has been received. Unless the bylaw specifies otherwise, only votes cast are to be taken into account and a ballot marked "withheld" in respect to a share is deemed to be a vote cast. Unless the bylaws specify otherwise, shares otherwise present at the meeting but for which there is an abstention or as to which no authority or direction to vote in the election is given or specified, are not deemed to be votes cast in the election;

(d) The board of directors may select any qualified individual to fill the office held by a director who did not receive the specified vote for election referenced in (b) of this subsection; and

(e) Unless the bylaw specifies otherwise, a bylaw adopted pursuant to this subsection (1) shall not apply to an election of directors by a voting group if (i) at the expiration of the time fixed under a provision requiring advance notification of director candidates, or (ii) absent such a provision, at a time fixed by the board of directors which is not more than fourteen days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one or more of whom are properly proposed by shareholders. An individual shall not be considered a candidate for purposes of this subsection (1)(e) if the board of directors determines before the notice of meeting is given that such individual's candidacy does not create a bona fide election contest.

(2) A bylaw containing an election to be governed by this section may be repealed or amended:

(a) If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides; or

(b) If adopted by the board of directors, by the board of directors or the shareholders.

**Sec. 5.** RCW 23B.01.400 and 2017 c 28 s 12 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the record is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Controlling interest" means ownership of an entity's outstanding shares or interests in such number as to entitle the holder at the time to elect a majority of the entity's directors or other governors without regard to voting power which may thereafter exist upon a default, failure, or other contingency.

(5) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(6) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(7) "Deliver" includes (a) mailing, (b) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders, transmission by facsimile equipment, and (c) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11, 23B.13, 23B.14, or 23B.16 RCW delivery by electronic transmission.

(8) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(9) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(10) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(11) "Electronically transmitted" means the initiation of an electronic transmission.

(12) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(13) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(14) "Execute," "executes," or "executed" means (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information

to determine the sender's identity with respect to an electronic transmission, or (c) with respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(15) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(16) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(17) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

(18) "Governmental subdivision" includes authority, county, district, and municipality.

(19) "Governor" has the meaning given that term in RCW 23.95.105.

(20) "Includes" denotes a partial definition.

(21) "Individual" includes the estate of an incompetent or deceased individual.

(22) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(23) "Means" denotes an exhaustive definition.

(24) "Notice" has the meaning provided in RCW 23B.01.410.

(25) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(26) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(27) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(28) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(29) "Qualified director" means (a) with respect to a director's conflicting interest transaction as defined in RCW 23B.08.700, any director who does not have either (i) a conflicting interest respecting the transaction, or (ii) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction; (b) with respect to RCW 23B.08.735, a qualified director under (a) of this subsection if the business opportunity were a director's conflicting interest transaction; and (c) with respect to RCW 23B.02.020(5)(k), a director who is not a director (i) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (ii) who has a familial, financial, professional, or employment relationship with another officer to whom the

limitation or elimination would apply, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the limitation or elimination.

(30) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

(31) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(32) "Registered office" means the address of the corporation's registered agent.

(33) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(34) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(35) "Shares" means the units into which the proprietary interests in a corporation are divided.

(36) "Social purpose" includes any general social purpose and any specific social purpose.

(37) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

(38) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

(39) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(40) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(41) "Subsidiary" means an entity in which the corporation has, directly or indirectly, a controlling interest.

(42) "Tangible medium" means a writing, copy of a writing, or facsimile, or a physical reproduction, each on paper or on other tangible material.

(43) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(44) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(45) "Writing" does not include an electronic transmission.

(46) "Written" means embodied in a tangible medium.

**Sec. 6.** RCW 23B.12.010 and 2017 c 28 s 10 are each amended to read as follows:

(1) ~~((A corporation may on the terms and conditions and for the consideration determined by the board of directors))~~ Unless the articles of incorporation provide otherwise, approval by a corporation's shareholders is not required:

(a) To sell, lease, exchange, or otherwise dispose of ((all,)) any or ((substantially)) all((,)) of ((its)) the corporation's property and assets in the usual and regular course of its business; or

(b) To mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of ((its)) the corporation's property and assets, regardless of whether or not ((any of)) these actions are in the usual and regular course of its business.

(2) ~~Unless the articles of incorporation ((require it, approval by the shareholders of a transaction described in subsection (1) of this section is not required.~~

(3) ~~A dedication of a) provide otherwise, approval by a corporation's shareholders is not required to dedicate the corporation's property and assets to the repayment of its creditors ((may be effected by the board of directors)) through an assignment for the benefit of creditors in accordance with chapter 7.08 RCW ((or by obtaining)) that is approved by the board of directors, or by the appointment of a general receiver in ((accordance with)) a proceeding under chapter 7.60 RCW((, and)) that is approved by the board of directors. The assumption of control over the corporation's property and assets by an assignee for the benefit of creditors or by a general receiver relieves the directors of any further duties with respect to the liquidation of the corporation's property and assets or the application of any property and assets or proceeds toward satisfaction of the claims of creditors.~~

**Sec. 7.** RCW 23B.12.020 and 2017 c 28 s 11 are each amended to read as follows:

(1) ~~((A corporation may sell,))~~ Except as provided in subsection (11) of this section, a sale, lease, exchange, or ((otherwise dispose of all, or substantially all, of its)) other disposition of a corporation's property and assets, ((otherwise)) other than in the usual and regular course of its business, ((on the terms and conditions and for the consideration determined by the corporation's board of directors. Except as provided in subsection (8) of this section, a transaction described in this subsection)) requires approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity.

(2) A continuing business activity will be conclusively presumed to represent a significant continuing business activity if, for the corporation and its subsidiaries on a consolidated basis, it represented at least:

(a) Twenty-five percent of total assets at the end of the most recently completed fiscal year; and

(b) Either: (i) Twenty-five percent of income from continuing operations before taxes, or (ii) twenty-five percent of revenues from continuing operations, in each case for the most recently completed fiscal year.

(3) No presumption that a disposition will leave the corporation without a significant continuing business activity will arise from the fact that the corporation's continuing business activity does not equal or exceed any of the percentages set forth in subsection (2) of this section.

(4) The determination of whether or not a continuing business activity constitutes a significant continuing business under subsection (2) of this section may be based either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or, in the case of subsection (2)(a) of this section, on a fair valuation or other method that is reasonable in the circumstances.

(5) For a ((transaction)) disposition to be approved by a corporation's shareholders:

(a) The board of directors must approve the disposition and submit the proposed ~~((transaction to))~~ disposition for approval by the shareholders ~~((for their approval));~~

(b) The board of directors must recommend the proposed ~~((transaction))~~ disposition to the shareholders unless (i) the board of directors determines that because of ~~((conflict))~~ conflicts of interest or other special circumstances it should make no recommendation or (ii) RCW 23B.08.245 applies, and in either case the board of directors communicates the basis for so proceeding to the shareholders; and

(c) The shareholders entitled to vote on the proposed disposition must approve the ~~((transaction))~~ proposed disposition as provided in subsection (8) of this section.

~~((3))~~ (6) The board of directors may condition its submission of the proposed ((transaction)) disposition on any basis, including the affirmative vote of holders of a specified percentage of shares held by any group of shareholders not otherwise entitled under this title or the articles of incorporation to vote as a separate voting group on the proposed ((transaction)) disposition.

~~((4))~~ (7) If the approval of the shareholders is to be given at a meeting, the corporation ((shall)) must notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting ((at which the proposed transaction is to be submitted for approval)) in accordance with RCW 23B.07.050. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the ~~((sale, lease, exchange, or other))~~ proposed disposition ~~((of all, or substantially all, of the property and assets of the corporation))~~ and contain or be accompanied by a description of the ~~((transaction))~~ proposed disposition, including a summary of the material terms and conditions thereof and the consideration to be received by the corporation.

~~((5))~~ (8) In addition to any other voting conditions imposed by the board of directors under subsection ~~((3))~~ (6) of this section, the ((transaction)) proposed disposition must be approved by two-thirds of the voting group comprising all the votes entitled to be cast on the ((transaction)) proposed disposition, and of each other voting group entitled under the articles of incorporation to vote separately on the ((transaction)) proposed disposition, unless shareholder approval is not required under subsection ~~((8))~~ (11) of this section. The articles of incorporation may require a greater or lesser vote than provided in this subsection, or a greater or lesser vote by any separate voting groups provided for in the articles of incorporation, so long as the required vote is not less than a majority of all the votes entitled to be cast on the ((transaction)) proposed disposition and of each other voting group entitled to vote separately on the ((transaction)) proposed disposition.



~~((6))~~ (9) After a ~~(sale, lease, exchange, or other disposition of property and assets has been approved as required by this section, the transaction may be abandoned, subject to any contractual rights, without further shareholder approval, in a manner determined by the board of directors.~~

(7)) proposed disposition has been approved by the shareholders as required by this section, and at any time before the proposed disposition has been consummated, the board of directors may abandon the proposed disposition without further action by the shareholders, subject to any contractual rights of other parties relating thereto.

(10) A ((transaction)) disposition that constitutes a distribution is governed by RCW 23B.06.400 and not by this section.

~~((8))~~ (11) Unless the articles of incorporation otherwise require, approval by the shareholders of a parent corporation is not required for the transfer of any or all of the parent corporation's property and assets to one or more ~~((subsidiary corporations or other entities))~~ subsidiaries all of the shares or interests of which are owned, directly or indirectly, by the parent corporation.

~~((9) The sale, lease, exchange, or other disposition of all, or substantially all, the assets of one or more subsidiaries of a corporation, if not in the usual and regular course of business as conducted by that subsidiary or those subsidiaries, is to be treated as a disposition by the parent corporation within the meaning of subsection (1) of this section if the subsidiary or subsidiaries constitute all, or substantially all, the assets of the parent corporation.)~~ (12) The assets of a subsidiary are to be treated as the assets of its parent corporation for purposes of this section.

Passed by the Senate February 20, 2019.

Passed by the House April 15, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 142

[Substitute Senate Bill 5004]

### VETERINARY SERVICES--LOW-INCOME HOUSEHOLDS

AN ACT Relating to allowing animal care and control agencies and nonprofit humane societies to provide additional veterinary services to low-income households; and amending RCW 18.92.250 and 18.92.260.

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

**Sec. 1.** RCW 18.92.250 and 2002 c 157 s 1 are each amended to read as follows:

The legislature recognizes that low-income households may not receive needed veterinary services for household pets. It is the intent of the legislature to allow qualified animal control agencies and humane societies to provide ~~((limited))~~ veterinary services to low-income members of our communities. It is not the intent of the legislature to allow these agencies to provide veterinary services to the public at large.

**Sec. 2.** RCW 18.92.260 and 2002 c 157 s 2 are each amended to read as follows:

(1)(a) Subject to the limitations in this section, animal care and control agencies as defined in RCW 16.52.011 and nonprofit humane societies, that have qualified under section 501(c)(3) of the internal revenue code may provide ~~((limited))~~ veterinary services to animals owned by qualified low-income households. ~~((The veterinary services provided shall be limited to electronic identification, surgical sterilization, and vaccinations.))~~ A veterinarian or veterinary technician acting within his or her scope of practice must perform the ~~((limited))~~ veterinary services. For purposes of this section, "low-income household" means the same as in RCW 43.185A.010.

(b) Animal control agencies and nonprofit humane societies, receiving any animals on an emergency basis, may provide emergency care ~~((subject to a local ordinance that defines an emergency situation and establishes temporary time limits))~~ where there is an unexpected, serious occurrence or situation that urgently requires prompt action in order to prevent an animal's death or permanent injury of the animal.

(c) Animal control agencies and nonprofit humane societies may provide veterinary care for sick animals up to thirty days postadoption.

(d) Any local ordinance addressing the needs under this section that was approved by the voters and is in effect on July 1, 2003, remains in effect.

(2) Veterinarians ~~((and))~~ veterinary technicians, and veterinary medication clerks employed at these facilities must be licensed under this chapter. No officer, director, supervisor, or any other individual associated with an animal care or control agency or nonprofit humane society owning and operating a veterinary medical facility may impose any terms or conditions of employment or direct or attempt to direct an employed veterinarian in any way that interferes with the free exercise of the veterinarian's professional judgment or infringes upon the utilization of his or her professional skills.

(3) Veterinarians, veterinary technicians, veterinary medication clerks, and animal control agencies and humane societies acting under this section shall, for purposes of providing the ~~((limited))~~ veterinary services, meet the requirements established under this chapter and are subject to the rules adopted by the veterinary board of governors in the same fashion as any licensed veterinarian or veterinary medical facility in the state.

(4) The Washington state veterinary board of governors shall adopt rules to:

(a) Establish registration and registration renewal requirements;

(b) Govern the purchase and use of drugs for the ~~((limited))~~ veterinary services authorized under this section; ~~((and))~~

(c) Establish annual reporting requirements that demonstrate the animal care and control facilities and nonprofit humane societies are serving only low-income households as defined in RCW 43.185A.010; and

(d) Ensure that agencies and societies are in compliance with this section.

(5) The ~~((limited))~~ veterinary medical service authority granted by registration under this section may be denied, suspended, revoked, or conditioned by a determination of the board of governors for any act of noncompliance with this chapter. The uniform disciplinary act, chapter 18.130 RCW, governs unregistered operation, the issuance and denial of registrations, and the discipline of registrants under this section.

(6) No animal control agency or humane society may operate under this chapter without registering with the department. An application for registration

shall be made upon forms provided by the department and shall include the information the department reasonably requires, as provided by RCW 43.70.280. The department shall establish registration and renewal fees as provided by RCW 43.70.250. A registration fee shall accompany each application for registration or renewal.

Passed by the Senate February 25, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 143

[Senate Bill 5074]

### UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT

AN ACT Relating to enactment of the uniform faithful presidential electors act; amending RCW 29A.56.320, 29A.56.340, and 29A.56.350; adding new sections to chapter 29A.56 RCW; creating new sections; and repealing RCW 29A.56.330.

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

**NEW SECTION. Sec. 1.** SHORT TITLE. This act may be known and cited as the uniform faithful presidential electors act.

**NEW SECTION. Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this section and sections 3 through 8 of this act unless the context clearly requires otherwise.

(1) "Cast" means accepted by the secretary of state in accordance with section 7(2) of this act.

(2) "Elector" means an individual selected as a presidential elector under RCW 29A.56.320 and sections 3 through 8 of this act.

(3) "President" means president of the United States.

(4) "Unaffiliated presidential candidate" means a candidate for president who qualifies for the general election ballot in this state by means other than nomination by a political party.

(5) "Vice president" means vice president of the United States.

**NEW SECTION. Sec. 3.** DESIGNATION OF STATE'S ELECTORS. For each elector position in this state, a political party contesting the position, or an unaffiliated presidential candidate, shall submit to the secretary of state the names of two qualified individuals. One of the individuals must be designated "elector nominee" and the other "alternate elector nominee." Except as otherwise provided in sections 5 through 8 of this act, this state's electors are the winning elector nominees under the laws of this state.

**NEW SECTION. Sec. 4.** PLEDGE. Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees for those offices of the party that nominated me." Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that

candidate's vice presidential running mate." The executed pledges must accompany the submission of the corresponding names to the secretary of state.

**NEW SECTION. Sec. 5. CERTIFICATION OF ELECTORS.** In submitting this state's certificate of ascertainment as required by 3 U.S.C. Sec. 6, the governor shall certify this state's electors and state in the certificate that:

(1) The electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy; and

(2) If a substitute elector is appointed to fill a vacancy, the governor will submit an amended certificate of ascertainment stating the names on the final list of this state's electors.

**NEW SECTION. Sec. 6. PRESIDING OFFICER—ELECTOR VACANCY.** (1) The secretary of state shall preside at the meeting of electors described in section 7 of this act.

(2) The position of an elector not present to vote is vacant. The secretary of state shall appoint an individual as a substitute elector to fill a vacancy as follows:

(a) If the alternate elector is present to vote, by appointing the alternate elector for the vacant position;

(b) If the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party or unaffiliated presidential candidate;

(c) If the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to (a) and (b) of this subsection, by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by and plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains;

(d) If there is a tie between at least two nominees for substitute elector in a vote conducted under (c) of this subsection, by appointing an elector chosen by lot from among those nominees; or

(e) If all elector positions are vacant and cannot be filled pursuant to (a) through (d) of this subsection, by appointing a single presidential elector, with remaining vacant positions to be filled under (c) of this subsection and, if necessary, (d) of this subsection.

(3) To qualify as a substitute elector under subsection (2) of this section, an individual who has not executed the pledge required under section 4 of this act shall execute the following pledge: "I agree to serve and to mark my ballots for president and vice president consistent with the pledge of the individual to whose elector position I have succeeded."

**NEW SECTION. Sec. 7. ELECTOR VOTING.** (1) At the time designated for elector voting and after all vacant positions have been filled under section 6 of this act, the secretary of state shall provide each elector with a presidential and a vice presidential ballot. The elector shall mark the elector's presidential and vice presidential ballots with the elector's votes for the offices of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(2) Except as otherwise provided by law of this state other than sections 2 through 8 of this act, each elector shall present both completed ballots to the secretary of state, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under section 4 or 6(3) of this act. Except as otherwise provided by law of this state other than sections 2 through 8 of this act, the secretary of state may not accept and may not count either an elector's presidential or vice presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge.

(3) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under section 4 or 6(3) of this act vacates the office of elector, creating a vacant position to be filled under section 6 of this act.

(4) The secretary of state shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.

**NEW SECTION. Sec. 8. ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES.** (1) After the vote of this state's electors is completed, if the final list of electors differs from any list that the governor previously included on a certificate of ascertainment prepared and transmitted under 3 U.S.C. Sec. 6, the secretary of state immediately shall prepare an amended certificate of ascertainment and transmit it to the governor for the governor's signature.

(2) The governor immediately shall deliver the signed amended certificate of ascertainment to the secretary of state and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this state's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the certificate of ascertainment previously submitted.

(3) The secretary of state shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The secretary of state shall process and transmit the signed certificate with the amended certificate of ascertainment under 3 U.S.C. Secs. 9, 10, and 11.

**NEW SECTION. Sec. 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**Sec. 10.** RCW 29A.56.320 and 2013 c 11 s 56 are each amended to read as follows:

(1) In the year in which a presidential election is held, each major political party and each minor political party or independent candidate convention that nominates candidates for president and vice president of the United States shall nominate presidential electors for this state. The party or convention shall file with the secretary of state a certificate signed by the presiding officer of the convention at which the presidential electors were chosen, listing the names and addresses of the presidential electors. ~~((Each presidential elector shall execute~~

and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by that party.))

(2) The names of presidential electors shall not appear on the ballots. The votes cast for candidates for president and vice president of each political party shall be counted for the candidates for presidential electors of that political party; however, if the interstate compact entitled the "agreement among the states to elect the president by national popular vote," as set forth in RCW 29A.56.300, governs the appointment of the presidential electors for a presidential election as provided in clause 9 of Article III of that compact, then the final appointment of presidential electors for that presidential election shall be in accordance with that compact.

**Sec. 11.** RCW 29A.56.340 and 2003 c 111 s 1427 are each amended to read as follows:

The electors of the president and vice president shall convene at the seat of government on the day fixed by federal statute, at the hour of twelve o'clock noon of that day. ~~((If there is any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend, or otherwise, the electors present shall immediately proceed to fill it by voice vote, and plurality of votes. When all of the electors have appeared and the vacancies have been filled they shall constitute the college of electors of the state of Washington, and shall proceed to perform the duties required of them by the Constitution and laws of the United States. Any elector who votes for a person or persons not nominated by the party of which he or she is an elector is subject to a civil penalty of up to one thousand dollars.))~~

**Sec. 12.** RCW 29A.56.350 and 2013 c 38 s 1 are each amended to read as follows:

Every presidential elector who attends at the time and place appointed, and gives his or her vote for president and vice president consistent with his or her pledge under section 4 or 6(3) of this act, is entitled to receive from this state a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060 for each day's attendance at the meeting of the college of electors.

NEW SECTION. **Sec. 13.** RCW 29A.56.330 (Counting and canvassing the returns) and 2003 c 111 s 1426 & 1965 c 9 s 29.71.030 are each repealed.

NEW SECTION. **Sec. 14.** CODIFICATION. Sections 2 through 8 of this act are each added to chapter 29A.56 RCW.

Passed by the Senate February 26, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 144

[Senate Bill 5119]

### TUITION AND FEE EXEMPTION--SURVIVING SPOUSES AND CHILDREN--HIGHWAY CONTRACTORS

AN ACT Relating to including highway workers employed on a transportation project by a contractor in the tuition and fee exemption for children and surviving spouses of highway workers; and amending RCW 28B.15.380.

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

**Sec. 1.** RCW 28B.15.380 and 2015 c 46 s 1 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College shall exempt the following students from the payment of all tuition fees and services and activities fees:

(1) Children of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, highway worker, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full-time or volunteer fire department in this state, or was a highway worker while either employed by a general contractor or subcontractor, on a transportation project or employed by a transportation agency: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school; and

(2) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, highway worker, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full-time or volunteer fire department in this state, or was a highway worker while either employed by a general contractor or subcontractor, on a transportation project or employed by a transportation agency.

(3) The governing boards of the state universities, the regional universities, and The Evergreen State College shall report to the education data center on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under this section. The education data center shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature.

(4) As used in this section, "transportation agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government in this state, and any agency, department, or division of state government, having as its primary function the construction and maintenance of the highways and roads within the state of Washington. Such an agency, department, or division is distinguished from a transit agency having as one of its functions the highway maintenance, including but not limited to the state department of transportation. A transportation agency under this section does not include a government contractor.

Passed by the Senate March 6, 2019.

Passed by the House April 15, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 145

[Substitute Senate Bill 5297]

## COLLECTIVE BARGAINING--ASSISTANT ATTORNEYS GENERAL

AN ACT Relating to extending collective bargaining rights to assistant attorneys general; amending RCW 41.80.005, 41.80.010, 43.10.070, and 43.10.060; adding a new section to chapter 41.80 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that the legal services provided by assistant attorneys general in the office of the attorney general are crucial to the ability of the state officials, agencies, colleges, boards, and commissions to function and fulfill their obligations to the citizens of the state. Assistant attorneys general are exempt from civil service under RCW 41.06.070. The assistant attorneys general currently have no mechanism through which to collectively bargain for salary increases. The legislature finds the office of the attorney general has experienced increased difficulty recruiting and retaining attorneys due to the disparity in wages paid to assistant attorneys general as compared to attorneys in other public sector positions. This type of turnover is costly to the office of the attorney general, negatively impacts morale, interferes with the ability of the office to succession plan, and ultimately harms the citizens of this state. Therefore, it is the legislature's intent to empower assistant attorneys general to collectively bargain for fair wages that will foster job satisfaction and the highest standards of professional competence among assistant attorneys general.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.80 RCW to read as follows:

(1) In addition to the agencies defined in RCW 41.80.005 and subject to the provisions of this section, this chapter applies to assistant attorneys general.

(2)(a) Assistant attorneys general who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain.

(b) Division chiefs, deputy attorneys general, the solicitor general, assistant attorneys general in the labor and personnel division, special assistant attorneys general, confidential employees as defined in RCW 41.80.005, and any assistant or deputy attorney general who reports directly to the attorney general are excluded from this section and do not have the right to collectively bargain.

(3) The only unit appropriate for the purpose of collective bargaining under this chapter is a statewide unit of all assistant attorneys general not otherwise excluded from bargaining.

(4) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for assistant attorneys general.

**Sec. 3.** RCW 41.80.005 and 2011 1st sp.s. c 43 s 444 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW. "Agency" also includes the assistant attorneys general of



the attorney general's office, regardless of whether those employees are exempt under chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW(~~(-except)~~). "Employee" includes assistant attorneys general of the office of the attorney general, regardless of their exemption under chapter 41.06 RCW. "Employee" does not include:

- (a) Employees covered for collective bargaining by chapter 41.56 RCW;
- (b) Confidential employees;
- (c) Members of the Washington management service;
- (d) Internal auditors in any agency; or
- (e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

**Sec. 4.** RCW 41.80.010 and 2017 3rd sp.s. c 23 s 3 are each amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) Except as otherwise provided, if an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(d) For assistant attorneys general, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) In the case of bargaining agreements reached between institutions of higher education other than the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements, the governor shall submit a request for

such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(iii) of this subsection.

(ii) In the case of bargaining agreements reached between the University of Washington and exclusive bargaining representatives agreed to under the provisions of this chapter, if appropriations are necessary to implement the compensation and fringe benefit provisions of a bargaining agreement, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in this subsection (4)(c)(ii) and as provided in (c)(iii) of this subsection.

(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

(I) Has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered; and

(II) Has been certified by the director of the office of financial management as being feasible financially for the state.

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(iii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(6) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in

the agreement. Thereafter, the employer may unilaterally implement according to law.

(7) For the 2013-2015 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee shall be a separate agreement for which the governor may request funds necessary to implement the agreement. The legislature may act upon a 2013-2015 collective bargaining agreement related to employee health care benefits if an agreement is reached and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating appropriations act by the sitting legislature.

(8)(a) For the 2015-2017 fiscal biennium, the governor may request funds to implement:

(i) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the service employees international union healthcare 1199nw, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(ii) Unilaterally implemented modifications to collective bargaining agreements, resulting from the employer being prohibited from negotiating with an exclusive bargaining representative due to a pending representation petition, necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees.

(iii) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the union of physicians of Washington, an exclusive bargaining representative, that was necessitated by an emergency situation or an imminent jeopardy determination by the center for medicare and medicaid services that relates to the safety or health of the clients, employees, or both the clients and employees. If the memorandum of understanding submitted to the legislature as part of the governor's budget document is rejected by the legislature, and the parties reach a new memorandum of understanding by June 30, 2016, within the funds, conditions, and limitations provided in section 204, chapter 36, Laws of 2016 sp. sess., the new memorandum of understanding shall be considered approved by the legislature and may be retroactive to December 1, 2015.

(iv) Modifications to collective bargaining agreements as set forth in a memorandum of understanding negotiated between the employer and the teamsters union local 117, an exclusive bargaining representative, for salary adjustments for the state employee job classifications of psychiatrist, psychiatric social worker, and psychologist.

(b) For the 2015-2017 fiscal biennium, the legislature may act upon the request for funds for modifications to a 2015-2017 collective bargaining agreement under (a)(i), (ii), (iii), and (iv) of this subsection if funds are requested by the governor before final legislative action on the supplemental omnibus appropriations act by the sitting legislature.

(c) The request for funding made under this subsection and any action by the legislature taken pursuant to this subsection is limited to the modifications described in this subsection and may not otherwise affect the original terms of the 2015-2017 collective bargaining agreement.

(d) Subsection (3)(a) and (b) of this section do not apply to requests for funding made pursuant to this subsection.

**Sec. 5.** RCW 43.10.070 and 1965 c 8 s 43.10.070 are each amended to read as follows:

Subject to any collective bargaining agreement, the attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services.

**Sec. 6.** RCW 43.10.060 and 2009 c 549 s 5049 are each amended to read as follows:

The attorney general may appoint necessary assistants(~~(, who shall hold office at his or her pleasure, and))~~ who shall have the power to perform any act which the attorney general is authorized by law to perform. Subject to any collective bargaining agreement, assistants shall hold office at the attorney general's pleasure.

Passed by the Senate March 5, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 146

[Senate Bill 5310]

### OFFICE OF FINANCIAL MANAGEMENT--DUTIES

AN ACT Relating to correcting agency names and accounts in statutes to reflect the organizational structure, duties, and responsibilities of the office of financial management; amending RCW 41.07.020, 41.06.070, 41.06.160, 41.48.140, and 72.01.210; reenacting and amending RCW 41.07.030 and 43.43.832; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 41.07.020 and 2015 3rd sp.s. c 1 s 107 are each amended to read as follows:

The (~~consolidated technology services agency~~) office of financial management is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated (~~jointly by the consolidated technology services agency and~~) by the director of financial management.

State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as administratively and technically feasible as determined by the office of financial management and the consolidated technology services agency. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature regarding salaries and related costs,

and to reduce present costs of manual procedures in personnel and payroll recordkeeping and reporting.

**Sec. 2.** RCW 41.07.030 and 2011 1st sp.s. c 43 s 611 and 2011 1st sp.s. c 43 s 442 are each reenacted and amended to read as follows:

The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the (~~department of enterprise services~~) office of financial management shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the (~~department of enterprise services~~) office of financial management is authorized to utilize the (~~data processing revolving fund created by RCW 43.19.791 and the personnel service fund~~) statewide information technology system maintenance and operations revolving account created by RCW (~~(41.06.280)~~) 43.41.442.

**Sec. 3.** RCW 41.06.070 and 2018 c 246 s 1 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, and temporary employees, and part-time professional consultants, as defined by the ~~((Washington personnel resources board))~~ director;

(m) Officers and employees of the Washington state fruit commission;

(n) Officers and employees of the Washington apple commission;

(o) Officers and employees of the Washington state dairy products commission;

(p) Officers and employees of the Washington tree fruit research commission;

(q) Officers and employees of the Washington state beef commission;

(r) Officers and employees of the Washington grain commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

(t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(u) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(v) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(w) Staff employed by the department of commerce to administer energy policy functions;

(x) The manager of the energy facility site evaluation council;

(y) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (v) of this subsection;

(z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(aa) Officers and employees of the consolidated technology services agency created in RCW 43.105.006 that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security;

(bb) The executive director of the Washington statewide reentry council.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:



(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the office of financial management stating the reasons for requesting such exemptions. The director shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director shall grant the request. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

(4) The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (t) and (2) of this section, shall be determined by the director. Changes to the classification plan affecting exempt salaries must

meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

(5)(a) Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(b) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

(c) A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

**Sec. 4.** RCW 41.06.160 and 2005 c 274 s 278 are each amended to read as follows:

In preparing classification and salary schedules as set forth in RCW 41.06.150 the (~~department of personnel~~) office of financial management shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys.

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

**Sec. 5.** RCW 41.48.140 and 1993 c 281 s 39 are each amended to read as follows:

Nothing in RCW 41.48.120 or 41.48.130 shall affect the power of the (~~Washington personnel resources board~~) office of financial management or any other state personnel authority to establish sick leave rules except as may be required under RCW 41.48.120 or 41.48.130: PROVIDED, That each personnel board and personnel authority shall establish the maximum number of working days an employee under its jurisdiction may be absent on account of sickness or accident disability without a medical certificate.

"Personnel authority" as used in this section, means a state agency, board, committee, or similar body having general authority to establish personnel rules.

**Sec. 6.** RCW 43.43.832 and 2017 3rd sp.s. c 20 s 5 and 2017 3rd sp.s. c 6 s 224 are each reenacted and amended to read as follows:

(1) The Washington state patrol identification and criminal history section shall disclose conviction records as follows:

(a) An applicant's conviction record, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian;

(b) The conviction record of an applicant for certification, upon the request of the Washington professional educator standards board;

(c) Any conviction record to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to

protect children and adults from further incidents of abuse, upon the request of a law enforcement agency, the office of the attorney general, prosecuting authority, or the department of social and health services; and

(d) A prospective client's or resident's conviction record, upon the request of a business or organization that qualifies for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter or transitional housing for children, persons with developmental disabilities, or vulnerable adults.

(2) The secretary of the department of social and health services and the secretary of children, youth, and families must establish rules and set standards to require specific action when considering the information received pursuant to subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities provided that: For persons residing in a home that will be utilized to provide foster care for dependent youth, a criminal background check will be required for all persons aged sixteen and older and the department of social and health services may require a criminal background check for persons who are younger than sixteen in situations where it may be warranted to ensure the safety of youth in foster care;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment, including peer counseling, of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(3) The secretary of the department of children, youth, and families shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an

individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(4) The secretary of the department of children, youth, and families shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The (~~Washington personnel resources board~~) office of financial management shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as

described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

**Sec. 7.** RCW 72.01.210 and 2017 3rd sp.s. c 6 s 727 are each amended to read as follows:

(1) The secretary of corrections shall appoint institutional chaplains for the state correctional institutions for convicted felons. Institutional chaplains shall be appointed as employees of the department of corrections. The secretary of corrections may further contract with chaplains to be employed as is necessary to meet the religious needs of those inmates whose religious denominations are not represented by institutional chaplains and where volunteer chaplains are not available.

(2) Institutional chaplains appointed by the department of corrections under this section shall have qualifications necessary to function as religious program coordinators for all faith groups represented within the department. Every chaplain so appointed or contracted with shall have qualifications consistent with community standards of the given faith group to which the chaplain belongs and shall not be required to violate the tenets of his or her faith when acting in an ecclesiastical role.

(3) The secretary of children, youth, and families shall appoint chaplains for the correctional institutions for juveniles found delinquent by the juvenile courts; and the secretary of corrections and the secretary of social and health services shall appoint one or more chaplains for other custodial, correctional, and mental institutions under their control.

(4) Except as provided in this section, the chaplains so appointed under this section shall have the qualifications and shall be compensated in an amount as recommended by the appointing department and approved by the ((Washington personnel resources board)) director of financial management.

**NEW SECTION. Sec. 8.** Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

Passed by the Senate March 7, 2019.

Passed by the House April 15, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 147

[Engrossed Substitute Senate Bill 5311]

### OFFICE OF FINANCIAL MANAGEMENT--OBSOLETE PROVISIONS

AN ACT Relating to government efficiency by eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management; amending RCW 38.40.030, 43.03.049, 43.08.015, and 43.320.090; and repealing RCW 28B.15.101, 39.80.070, 43.41.220, 43.41.230, 43.41.240, 43.41.250, 43.41.905, and 43.132.800.

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

**Sec. 1.** RCW 38.40.030 and 1989 c 19 s 47 are each amended to read as follows:

If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service or inactive duty as a member of the organized militia, he or she shall receive from the state of Washington just and reasonable relief in the amount to be determined as provided in this section, including necessary medical care. If the member dies from disease contracted or injury received or is killed while in active state service or inactive duty under order of the governor, then the dependents of the deceased shall receive such compensation as may be allowed as provided in this section. If the United States or any agent thereof, in accordance with any federal statute or regulation, furnishes monetary assistance, benefits, or other temporary or permanent relief to militia members or to their dependents for injuries arising out of and occurring in the course of their activities as militia members, but not including Social Security benefits, then the amount of compensation which any militia member or his or her dependents are otherwise entitled to receive from the state of Washington as provided in this section shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the militia member or his or her dependents have received and will receive from the United States or any agent thereof as a result of his or her injury. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed by the adjutant general. The board has the same power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. The amount of compensation or benefits payable shall conform as nearly as possible to the general schedule of payments and awards provided under the workers' compensation law in effect in the state of Washington at the time the disability or death occurred. The findings of the board shall be reviewed by the adjutant general ~~((and submitted to the governor))~~ for final approval. The ~~((reviewing officer or the governor))~~ adjutant general may return the proceedings for revision or for the taking of further testimony. The action of the board when finally approved by the ~~((governor))~~ adjutant general is final and conclusive and constitutes the fixed award for the injury or loss and is a debt of the state of Washington.

**Sec. 2.** RCW 43.03.049 and 2011 1st sp.s. c 21 s 63 are each amended to read as follows:

Exceptions to restrictions on subsistence, lodging, or travel expenses under this chapter may be granted for the critically necessary work of an agency. For boards, commissions, councils, committees, or similar groups in agencies of the executive branch, the exceptions ((shall be)) are subject to approval by the ((director of financial management or the director's designee)) agency head or authorized designee. For boards, commissions, councils, committees, or similar groups in the executive branch under the purview of a separately elected official, president of an institution of higher education, chair, or executive director, the exceptions are subject to approval of the separately elected official, president of the institution of higher education, chair, or executive director. For agencies of the judicial branch, the exceptions shall be subject to approval of the chief justice of the supreme court. For the house of representatives and the senate, the exceptions shall be subject to the approval of the chief clerk of the house of representatives and the secretary of the senate, respectively, under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives. For other legislative agencies, the exceptions shall be subject to approval of both the chief clerk of the house of representatives and the secretary of the senate under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives.

**Sec. 3.** RCW 43.08.015 and 1993 c 500 s 3 are each amended to read as follows:

Within the policies and procedures established pursuant to RCW 43.41.110(13) and 43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies (~~((with the concurrence of the office of financial management))~~).

**Sec. 4.** RCW 43.320.090 and 1993 c 472 s 23 are each amended to read as follows:

(1) It shall be unlawful for the director of financial institutions, any deputized assistant of the director, or any employee of the department of financial institutions to borrow money from any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, or trust company or department, securities broker-dealer or investment advisor, or similar lending institution under the department's direct jurisdiction unless the extension of credit:

(a) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the financial institution with other persons that are not employed by either the department or the institution; and

(b) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) ~~((The director of the office of financial management shall adopt rules, policies, and procedures interpreting and implementing this section.~~

(3)) Every person who knowingly violates this section shall forfeit his or her office and employment and be guilty of a gross misdemeanor.

**NEW SECTION. Sec. 5.** The following acts or parts of acts are each repealed:

(1) RCW 28B.15.101 (Authority to modify tuition rates—Performance-based measures and goals—Institutional performance plans) and 2011 1st sp.s. c 10 s 5;

(2) RCW 39.80.070 (Contracts, modifications reported to the office of financial management) and 1993 c 433 s 9;

(3) RCW 43.41.220 (Review of boards and commissions by governor—Report—Termination—Transfers) and 1994 sp.s. c 9 s 873;

(4) RCW 43.41.230 (Boards and commissions reviewed—Exceptions) and 1994 sp.s. c 9 s 874;

(5) RCW 43.41.240 (Approval of board or commission not established or required by statute) and 1998 c 245 s 64 & 1994 sp.s. c 9 s 875;

(6) RCW 43.41.250 (Criteria for new board or commission not established or required by statute) and 1994 sp.s. c 9 s 876;

(7) RCW 43.41.905 (Interagency task force on unintended pregnancy) and 1997 c 58 s 1001; and

(8) RCW 43.132.800 (Fiscal impact on local governments of selected laws enacted over five-year period—Annual report) and 2000 c 182 s 5.

Passed by the Senate March 7, 2019.

Passed by the House April 15, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 148

[Engrossed Substitute Senate Bill 5332]

### VITAL RECORDS SYSTEM

AN ACT Relating to vital statistics; amending RCW 18.39.525, 19.182.220, 26.04.090, 26.04.165, 26.09.150, 35A.70.070, 43.79.445, 43.121.100, 68.50.300, and 74.20A.056; adding a new section to chapter 42.56 RCW; adding a new chapter to Title 70 RCW; creating a new section; repealing RCW 43.70.160, 70.58.005, 70.58.010, 70.58.020, 70.58.030, 70.58.040, 70.58.050, 70.58.055, 70.58.061, 70.58.065, 70.58.070, 70.58.080, 70.58.082, 70.58.085, 70.58.095, 70.58.098, 70.58.100, 70.58.104, 70.58.107, 70.58.110, 70.58.120, 70.58.130, 70.58.145, 70.58.150, 70.58.160, 70.58.170, 70.58.175, 70.58.180, 70.58.190, 70.58.210, 70.58.230, 70.58.240, 70.58.250, 70.58.260, 70.58.270, 70.58.280, 70.58.380, 70.58.390, 70.58.400, and 70.58.900; prescribing penalties; and providing an effective date.

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

**NEW SECTION. Sec. 1. INTENT AND PURPOSE.** (1) Protection of public health requires a vital records system that provides proof of vital life events and gathers population health data for assessment, evaluation, research, and other public health purposes. An efficient and effective vital records system is a foundational public health service to support a healthy and productive population.

(2) The purpose of this chapter is to provide a framework for ongoing administration of a single comprehensive vital records system in the state that is operated and maintained by the department, under the supervision of the state



registrar, to preserve the security, integrity, and confidentiality of state vital records and vital statistics, established under RCW 43.70.130 and this chapter.

**NEW SECTION. Sec. 2. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means a person who is at least eighteen years of age, or an emancipated minor under chapter 13.64 RCW.

(2) "Amendment" means a change to a certification item on the vital record.

(3) "Authorized representative" means a person permitted to receive a certification who is:

(a) Identified in a notarized statement signed by a qualified applicant; or

(b) An agent identified in a power of attorney as defined in chapter 11.125 RCW.

(4) "Certification" means the document, in either paper or electronic format, containing all or part of the information contained in the original vital record from which the document is derived, and is issued from the central vital records system. A certification includes an attestation by the state or local registrar to the accuracy of information, and has the full force and effect of the original vital record.

(5) "Certification item" means any item of information that appears on certifications.

(6) "Coroner" means the person elected or appointed in a county under chapter 36.16 RCW to serve as the county coroner and fulfill the responsibilities established under chapter 36.24 RCW.

(7) "Cremated remains" has the same meaning as "cremated human remains" in chapter 68.04 RCW.

(8) "Delayed report of live birth" means the report submitted to the department for the purpose of registering the live birth of a person born in state that was not registered within one year of the date of live birth.

(9) "Department" means the department of health.

(10) "Domestic partner" means a party to a state registered domestic partnership established under chapter 26.60 RCW.

(11) "Facility" means any licensed establishment, public or private, located in state, which provides inpatient or outpatient medical, surgical, or diagnostic care or treatment; or nursing, custodial, or domiciliary care. The term also includes establishments to which persons are committed by law including, but not limited to:

(a) Mental illness detention facilities designated to assess, diagnose, and treat individuals detained or committed, under chapter 71.05 RCW;

(b) City and county jails;

(c) State department of corrections facilities; and

(d) Juvenile correction centers governed by Title 72 RCW.

(12) "Fetal death" means any product of conception that shows no evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles after complete expulsion or extraction from the individual who gave birth that is not an induced termination of pregnancy and:

(a) Has completed twenty or more weeks of gestation as calculated from the date the last menstrual period of the individual who gave birth began, to the date of expulsion or extraction; or

(b) Weighs three hundred fifty grams or more, if weeks of gestation are not known.

(13) "Final disposition" means the burial, interment, entombment, cremation, removal from the state, or other manner of disposing of human remains as authorized under chapter 68.50 RCW.

(14) "Funeral director" means a person licensed under chapter 18.39 RCW as a funeral director.

(15) "Funeral establishment" means a place of business licensed under chapter 18.39 RCW as a funeral establishment.

(16) "Government agencies" include state boards, commissions, committees, departments, educational institutions, or other state agencies which are created by or pursuant to statute, other than courts and the legislature; county or city agencies, United States federal agencies, and federally recognized tribes and tribal organizations.

(17) "Human remains" means the body of a deceased person, includes the body in any stage of decomposition, and includes cremated human remains, but does not include human remains that are or were at any time under the jurisdiction of the state physical anthropologist under chapter 27.44 RCW.

(18) "Individual" means a natural person.

(19) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with an intention other than to produce a live-born infant, and which does not result in a live birth.

(20) "Informational copy" means a birth or death record issued from the central vital records system, containing all or part of the information contained in the original vital record from which the document is derived, and indicating it cannot be used for legal purposes on its face.

(21) "Legal guardian" means a person who serves as a guardian for the purpose of either legal or custodial matters, or both, relating to the person for whom the guardian is appointed. The term legal guardian includes, but is not limited to, guardians appointed pursuant to chapters 11.88 and 13.36 RCW.

(22) "Legal representative" means a licensed attorney representing either the subject of the record or qualified applicant.

(23) "Live birth" means the complete expulsion or extraction of a product of human conception from the individual who gave birth, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(24) "Local health officer" has the same meaning as in chapter 70.05 RCW.

(25) "Medical certifier" for a death or fetal death means an individual required to attest to the cause of death information provided on a report of death or fetal death. Each individual certifying cause of death or fetal death may certify cause of death only as permitted by that individual's professional scope of practice. These individuals include:

(a) A physician, physician's assistant, or an advanced registered nurse practitioner last in attendance at death or who treated the decedent through examination, medical advice, or medications within the twelve months preceding the death;

(b) A midwife, only in cases of fetal death; and

(c) A physician performing an autopsy, when the decedent was not treated within the last twelve months and the person died a natural death.

(26) "Medical examiner" means the person appointed under chapter 36.24 RCW to fulfill the responsibilities established under chapter 36.24 RCW.

(27) "Midwife" means a person licensed to practice midwifery pursuant to chapter 18.50 RCW.

(28) "Physician" means a person licensed to practice medicine, naturopathy, or osteopathy pursuant to Title 18 RCW.

(29) "Registration" or "register" means the process by which a report is approved and incorporated as a vital record into the vital records system.

(30) "Registration date" means the month, day, and year a report is incorporated into the vital records system.

(31) "Report" means an electronic or paper document containing information related to a vital life event for the purpose of registering the vital life event.

(32) "Sealed record" means the original record of a vital life event and the evidence submitted to support a change to the original record.

(33) "Secretary" means the secretary of the department of health.

(34) "State" means Washington state unless otherwise specified.

(35) "State registrar" means the person appointed by the secretary to administer the vital records system under section 4 of this act.

(36) "Territory of the United States" means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands.

(37) "Vital life event" means a birth, death, fetal death, marriage, dissolution of marriage, dissolution of domestic partnership, declaration of invalidity of marriage, declaration of invalidity of domestic partnership, and legal separation.

(38) "Vital record" or "record" means a report of a vital life event that has been registered and supporting documentation.

(39) "Vital records system" means the statewide system created, operated, and maintained by the department under this chapter.

(40) "Vital statistics" means the aggregated data derived from vital records, including related reports, and supporting documentation.

**NEW SECTION. Sec. 3. RULE MAKING.** (1) The secretary shall have charge of the state vital records system and shall adopt rules to ensure implementation of the vital records system and this chapter.

(2) The secretary may adopt rules to set fees for services related to the vital records system including, but not limited to, expediting requests, verification and access for government agencies, registering reports of delayed birth, amending vital records, and releasing vital records and vital statistics.

(3) The state board of health may adopt, amend, or repeal rules requiring statistical information related to birth and manner of delivery.

**NEW SECTION. Sec. 4. APPOINTMENT OF THE STATE REGISTRAR.** The secretary shall appoint the state registrar in accordance with RCW 43.70.020 and 43.70.150.

**NEW SECTION. Sec. 5. DUTIES OF THE STATE REGISTRAR.** (1) The state registrar shall administer and enforce the provisions of this chapter and shall:

(a) Administer the operation and maintenance of the vital records system to preserve the security, integrity, and confidentiality of state vital records and vital statistics established under RCW 43.70.130 and 43.70.150 and this chapter;

(b) Prescribe paper and electronic forms needed to carry out the purposes of this chapter;

(c) Prescribe the information required in forms, reports, vital records, certifications, or other documents authorized by this chapter;

(d) Prescribe the means for transmission of data, including electronic submission, necessary to accomplish the purpose of complete, accurate, and timely reporting and registration;

(e) Review reports to determine if additional information is necessary to register the report. If any reports are incomplete, the state registrar shall require submission of information necessary to make the record complete;

(f) Deny or revoke registration of a report or application for an amendment, or withhold or deny issuance of a certification for the reasons permitted by this chapter;

(g) Prepare and publish vital statistics pursuant to this chapter;

(h) Prepare a plan to provide for the continuity of operations of the vital records system in the event of an emergency;

(i) Take measures to prevent the fraudulent use of vital records; and

(j) Perform data quality assurance and record matching activities.

(2) The state registrar may delegate functions and duties vested in the state registrar under this section to employees of the department.

(3) The state registrar may appoint a deputy state registrar, with the concurrence of the secretary, with the same authority granted to the state registrar under this chapter.

**NEW SECTION. Sec. 6. APPOINTMENT OF LOCAL AND DEPUTY REGISTRARS.** (1) Under the direction and control of the state registrar, the local health officer of each health jurisdiction is and shall serve as local registrar.

(2) Subject to the approval of the state registrar, each local registrar shall appoint a sufficient number of deputy registrars to perform the duties prescribed by this chapter applicable to local registrars. The local registrar shall submit each proposed appointment to the state registrar in writing. The state registrar shall either approve or deny the appointment in writing prior to the assumption of duties by the deputy registrar. The state registrar may deny an appointment for good cause.

(3) The state registrar shall authorize a local or deputy registrar to access the electronic vital records databases to issue birth or death certifications upon the local or deputy registrar's appointment. Access and use of the database by the local or deputy registrar must be consistent with this chapter.

(4) The state board of health may remove the local health officer as local registrar upon finding evidence of neglect in the performance of duties as local registrar.

**NEW SECTION. Sec. 7. SECURITY OF THE VITAL RECORDS SYSTEM.** (1) A person may not prepare or issue any vital record that purports to be an original, certification of, or copy of a vital record except as authorized in this chapter.

(2) All certifications of vital records must include security features to deter alteration, counterfeiting, or simulation without ready detection.

(3) All informational copies must indicate that they cannot be used for legal purposes on their face.

(4) The state registrar may:

(a) Authorize users of the vital records system to access specific components of the vital records system based on their official duties;

(b) Require users authorized under this section to acknowledge having read and understood security procedures and penalties;

(c) Revoke user access of the vital records system when the user violates security procedures or when the user no longer needs access to conduct official duties;

(d) Ensure that state birth records are marked as deceased upon receipt of death records; and

(e) Periodically test and audit the vital records system for purposes of detecting fraud. If fraud is suspected, the state registrar may provide copies of the evidence to appropriate authorities for further investigation consistent with the provisions of section 26 of this act. The state registrar may retain the results of such tests and audits, which are not subject to inspection or copying except upon order of a court of competent jurisdiction.

(5) The state registrar may, at the state registrar's discretion, validate data provided in reports filed for registration through site visits or with independent sources outside the vital records system at a frequency specified by the state registrar to maximize the integrity of the data collected.

**NEW SECTION. Sec. 8. CONTENT, SUBMISSION, AND HANDLING OF REPORTS AND VITAL RECORDS.** (1) Forms prescribed by the state registrar must be used in reporting, registering, and issuing certifications and informational copies, and preserving vital records, or in otherwise carrying out the purpose of this chapter.

(2) Reports must contain the data required for registration. No report may be held to be complete and correct that does not supply all items of information required under this chapter, or that does not satisfactorily account for the omission of required items.

**NEW SECTION. Sec. 9. REGISTRATION OF LIVE BIRTH—KNOWN PARENTAGE.** (1) A facility representative or midwife shall prepare and submit a report of live birth for each live birth at which that person attended that occurs in this state to the department within ten calendar days after the birth occurs. The facility representative or midwife shall:

(a) Include all data and evidence required to establish the facts of live birth under this section;

(b) Include parentage information consistent with chapters 26.26A and 26.26B RCW;

(c) Include all statistical information required about the individual who gave birth;

(d) Ensure the accuracy of the personal data entered on the report; and

(e) Attest the child was born alive at the place and time, and on the date stated on the report.

(2) The health care provider or facility representative providing prenatal care shall provide the prenatal care information required for the report of live birth to the facility where the delivery is expected to occur not less than thirty calendar days prior to the expected delivery date.

(3) When a live birth occurs in a facility or en route to a facility, the facility representative shall submit the report of live birth consistent with this section.

(4) When a live birth occurs outside a facility and not en route to a facility, the report of live birth must be filed consistent with this section by the:

(a) Health care provider in attendance of the live birth; or

(b) Facility representative where the individual who gave birth and child are examined, if that examination happens within ten calendar days of live birth.

(5) For an unattended live birth not reported under subsection (4) of this section, a report of live birth and an affidavit stating the facts of the birth must be filed with the department within ten calendar days of the live birth.

(a) The report of live birth must be completed and signed by a person with knowledge of the facts of the birth other than the individual who gave birth to the child.

(b) The affidavit attesting to the facts of the birth must be completed and signed by the individual who gave birth, other parent, or other person with knowledge of the facts of the birth.

(c) The report of live birth and affidavit must not be signed by the same person.

(6) When the live birth occurs on a moving conveyance:

(a) Within the United States, and the child is first removed from the conveyance in state, the place where the child is first removed from the conveyance must be registered as the place of live birth;

(b) While in international waters or air space, or in a foreign country or its air space, and the child is first removed from the conveyance in state, the live birth must be registered in this state. The report of live birth under this subsection must show the actual place of live birth insofar as can be determined.

(7) The facility representative or midwife shall provide written and oral information and required forms, furnished by the department of social and health services and the state registrar, to the parents of a child about establishing parentage pursuant to chapter 26.26A RCW.

(8) The state registrar may not register a report of live birth unless it has been completed and filed in accordance with this chapter.

(9) A report of a live born child of unknown parentage must be registered in accordance with section 10 of this act.

(10) A delayed report of live birth filed after one year from the date of live birth must be registered in accordance with section 11 of this act.

**NEW SECTION. Sec. 10. REGISTRATION OF LIVE BIRTH—UNKNOWN PARENTAGE.** (1) When a child is found for whom no record of live birth is known to be on file, within ten calendar days of the child being found, a report of a live birth must be filed with the department in a manner prescribed by the state registrar.

(2) If the child is identified at a later date and another live birth record is found, the state registrar shall void the record registered under subsection (1) of this section.

(3) This section cannot be used when the report of live birth is considered a delayed registration under section 11 of this act or an unattended live birth under section 9(5) of this act.

**NEW SECTION. Sec. 11. DELAYED REGISTRATION OF LIVE BIRTH.** (1) An individual requesting a delayed report of live birth shall submit to the state registrar a completed and signed delayed report of live birth. Each report must include documentary evidence establishing the facts of the live birth and any applicable fees. The completed delayed report of live birth must be signed and sworn under penalty of perjury by the individual whose live birth is to be registered if the individual is an adult, or by the parent or legal guardian if the individual whose live birth is to be registered is not an adult.

(2) An individual requesting the delayed report of live birth of an individual under twelve years of age must establish the facts concerning full name, date, and place of live birth.

(3) An individual requesting the delayed report of live birth of an individual twelve years of age or over must establish the facts concerning full name, date, and place of live birth and the full name prior to first marriage of the individual who gave birth. Documentary evidence for an individual twelve years of age or over, other than affidavits, must have been established at least five years prior to the date of application.

(4) Each piece of documentary evidence must come from a unique source in the form of the original record or an exact copy thereof. The individual requesting the delayed report of live birth must either be able to authenticate the source of each document presented to the department, or present to the department a signed statement from the custodian of the record or document which attests to the authenticity of the document and the accuracy of the facts contained in the document.

(5) The state registrar may verify the authenticity and accuracy of documentary evidence provided by the individual requesting a delayed report of live birth.

(6) The state registrar shall not register a delayed report of live birth until all applicable provisions of this chapter have been met to the satisfaction of the state registrar.

(7) Upon review and approval of a delayed report of live birth, the state registrar shall register a delayed report of live birth. The delayed birth record must include a description of the evidence used to establish the delayed birth record.

(8) If the state registrar denies a delayed report of live birth, section 12 of this act is the sole remedy for decisions made under this section. The administrative procedure act, chapter 34.05 RCW, does not govern review of decisions on registration of delayed reports of live birth made by the state registrar under this section.

**NEW SECTION. Sec. 12. REGISTRATION OF LIVE BIRTH—COURT ORDERED.** (1) If the state registrar denies a delayed report of live birth under the provisions of section 11 of this act, the individual requesting the delayed report of live birth may petition a court of competent jurisdiction for an order establishing a record of the name, date, and place of the live birth, and parentage of the individual whose live birth is to be registered.

(2) The petition must allege:

(a) The individual for whom a delayed report of live birth is sought was born in state;

(b) No report of live birth of the individual can be found in the vital records system;

(c) Diligent efforts by the petitioner have failed to obtain the evidence required in accordance with section 11 of this act; and

(d) The state registrar has denied a delayed report of live birth.

(3) The petition must be accompanied by a statement of the state registrar made in accordance with section 11 of this act and all documentary evidence to support such registration which was filed with the state registrar.

(4) The court shall fix a time and place for hearing the petition. The petitioner shall serve the state registrar with notice of the time and place for hearing and shall include with such notice the petition filed with the court. The petitioner shall give the state registrar notice at least thirty calendar days prior to the date set for the hearing.

(5) The state registrar, or the state registrar's designee, may present at the hearing any information the state registrar believes will be useful to the court. The state registrar is not required to attend or appear for the hearing, and the court may proceed without the state registrar if the state registrar does not appear at the designated time and place set for hearing in the notice.

(6) The burden of proof is on the petitioner.

(7) If the court finds, by clear and convincing evidence, that the individual for whom a delayed report of live birth is sought was born in state, the court shall issue an order requiring the state registrar to establish a delayed record of live birth. This order must include, at a minimum, the following findings:

(a) The full name, city and county of live birth, and birth date to be registered of the individual whose live birth is to be registered;

(b) The full name, state or country of birth, and date of birth of the individual who gave birth; and

(c) A statement of the evidence relied on by the court in making the order.

(8) The clerk of the court shall forward the order to the state registrar within five business days after the order is entered.

(9) The state registrar shall register the live birth upon receipt of an order to register a delayed report of live birth from a court of competent jurisdiction, and must include the court case number and the date of the order in the vital record.

**NEW SECTION. Sec. 13. REGISTRATION OF DEATH AND FETAL DEATH.** (1)(a) Reports of death and fetal death must comply with the requirements of this section.

(b) For the purposes of this section, "death" includes "fetal death" as defined in section 2 of this act.

(2) A complete report of death must be filed with the local registrar in the local health jurisdiction where the death occurred for each death that occurs in this state. Except for circumstances covered by subsection (7) of this section, the report must be filed within five calendar days after the death or finding of human remains and prior to final disposition of the human remains as required by this section.



(a) If the place of death is unknown and the human remains are found in state prior to final disposition, the death must be filed in state and the place where the human remains were found is the place of death.

(b) When death occurs in a moving conveyance within or outside the United States and the human remains are first removed from the conveyance in state, the death must be filed in state and the place of death is the place where the remains were removed from the moving conveyance.

(c) In all other cases, the place where death is pronounced is the place where death occurred.

(d) An approximate date of death may be used if date of death is unknown. If the date cannot be determined by approximation, the date of death must be the date the human remains were found.

(3) If the death occurred with medical attendance, a funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 shall:

(a) Obtain and enter personal data on the report of death about the decedent from the person best qualified to provide the information;

(b) Provide the report of death to the medical certifier within two calendar days after the death or finding of human remains;

(c) File the completed report of death with the local registrar; and

(d) Obtain a burial transit permit prior to the disposition of the human remains as required in section 14 of this act.

(4) The medical certifier shall:

(a) Attest to the cause, date, and time of death; and

(b) Return the report of death to the funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 within two calendar days.

(5) The report of death may be completed by another individual qualified to be a medical certifier as defined in section 2 of this act who has access to the medical history of the decedent when:

(a) The medical certifier is absent or unable to attest to the cause, date, and time of death; or

(b) The death occurred due to natural causes, and the medical certifier gives approval.

(6) If the death occurred without medical attendance, the funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 shall provide the report of death to the coroner, medical examiner, or local health officer as allowed by (a) of this subsection.

(a) If the death occurred due to natural causes, the coroner, medical examiner, or local health officer shall determine whether to certify the report of death. If the coroner, medical examiner, or local health officer decides to certify the report of death, the person certifying the report shall:

(i) Attest to the manner, cause, and date of death without holding an inquest or performing an autopsy or postmortem, based on statements of relatives, persons in attendance during the last sickness, persons present at the time of death, or other persons having adequate knowledge of the facts;

(ii) Note that there was no medical attendance at the time of death; and

(iii) Return the report of death to the funeral home within two calendar days.

(b) If the death appears to be the result of unlawful or unnatural causes, the coroner or medical examiner shall:

- (i) Attest to the cause, place, and date of death;
- (ii) Note that there was no medical attendance at the time of death;
- (iii) Note when the cause of death is pending investigation; and
- (iv) Return the report of death to the funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 within two calendar days.

(7) When there is no funeral director, funeral establishment, or person having the right to control the disposition of human remains under chapter 68.50 RCW, the coroner, medical examiner, or local health officer shall file the completed report of death with the local registrar as required by subsection (2) of this section.

(8) When a coroner or medical examiner determines that there is sufficient circumstantial evidence to indicate that an individual has died in the county or in waters contiguous to the county, and that it is unlikely that the body will be recovered, the coroner or medical examiner shall file a report of death, including the cause, place, and date of death, to the extent possible.

(9) The coroner or medical examiner in a county in which a decedent was last known to be alive may file a report of death with the local registrar when the county in which the presumed death occurred cannot be determined with certainty. The coroner or medical examiner shall file a report of death, including the cause, place, and date of death, to the extent possible.

(10) The coroner or medical examiner having jurisdiction may release information contained in a report of death according to RCW 68.50.300.

(11) The local registrar shall:

(a) Review filed reports of death to ensure completion in accordance with this chapter;

(b) Request missing information or corrections;

(c) Ensure issuance of the burial-transit permit as required under section 14 of this act;

(d) Register a report of death with the department if it has been completed and submitted in accordance with this section.

(12) A medical certifier, coroner, medical examiner, or local health officer shall submit an affidavit of correction to the state registrar to amend the report of death within five calendar days of receipt of an autopsy result or other information that completes or amends the cause of death from that originally filed with the department.

(13) The department may require a medical certifier, coroner, medical examiner, or local health officer to provide additional or clarifying information to properly code and classify cause of death.

**NEW SECTION. Sec. 14. FINAL DISPOSITION OF HUMAN REMAINS.** (1)(a) Reports of death and fetal death must comply with the requirements of this section.

(b) For the purposes of this section, "death" includes "fetal death" as defined in section 2 of this act.

(2) If a report of death is completed and filed in accordance with this chapter, the local registrar shall issue a burial-transit permit or disinterment

permit to the funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160.

(3) A person may not provide for final disposition of human remains until the following have occurred:

(a) The report of death has been registered in accordance with section 13 of this act; and

(b) The funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 has obtained a burial-transit permit authorizing final disposition.

(4) A funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 shall:

(a) Deliver the burial-transit permit to the person in charge of the funeral establishment licensed under chapter 18.39 RCW, crematory with a permit or endorsement under RCW 68.05.175, or cemetery authority as defined in RCW 68.04.190 before interring the human remains; or

(b) Attach the burial-transit permit to the container holding the human remains when shipped by a transportation company.

(5) Final disposition of human remains must be completed in accordance with chapter 68.50 RCW.

(6) A person in charge of a funeral establishment licensed under chapter 18.39 RCW or cemetery authority as defined in RCW 68.04.190:

(a) May not allow the final disposition of human remains unless accompanied by a burial-transit permit;

(b) Shall indicate on the burial-transit permit the date and type of final disposition;

(c) Shall return all completed and signed or electronically approved burial-transit permits to the local registrar for the county in which the death occurred within ten days of final disposition;

(d) Shall keep a record of all human remains disposed of on the premises, including the:

(i) Name of the deceased individual;

(ii) Place of death;

(iii) Date of disposition; and

(iv) Name and address of the funeral director, funeral establishment, or other person having the right to control the disposition of the human remains under RCW 68.50.160.

(7) When there is no person in charge of the place of final disposition, the funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 shall write across the face of the permit the words "no person in charge."

(8) A funeral director, funeral establishment, or person having the right to control the disposition of the human remains under RCW 68.50.160 must obtain a disinterment permit from the local registrar to disinter human remains or a burial-transit permit from the local registrar to reinter human remains.

(9) A person may not bring into or transport within this state; inter, deposit in a vault, grave, or tomb; or cremate or otherwise dispose of the human remains of any person whose death occurred outside the state, unless the human remains are accompanied by a burial-transit permit or other document issued in accordance with the laws in force where the death occurred. A burial-transit

permit is not required for the spreading of cremated remains in accordance with the laws regulating the scattering of cremated remains in state, federal, and international lands or water.

(10) A funeral director or funeral establishment licensed under chapter 18.39 RCW, or a funeral establishment licensed in Oregon or Idaho, may remove human remains from the local health jurisdiction where the death occurred to another local health jurisdiction or Oregon or Idaho without having obtained a burial-transit permit if the funeral director or funeral establishment:

(a) Has been issued a certificate of removal registration by the director of the department of licensing; and

(b) Initiates a report of death with the local registrar where the death occurred.

**NEW SECTION. Sec. 15. REGISTRATION OF MARRIAGE.** The state registrar shall register reports of marriage received from a state county auditor pursuant to chapter 26.04 RCW.

**NEW SECTION. Sec. 16. REGISTRATION OF LEGAL SEPARATION, DISSOLUTION, AND DECLARATION OF INVALIDITY OF MARRIAGE OR DOMESTIC PARTNERSHIP.** The state registrar shall register reports of legal separation, dissolution of marriage, dissolution of domestic partnership, declaration of invalidity of marriage, and declaration of invalidity of domestic partnership from the clerk of each state superior court pursuant to chapter 26.09 RCW.

**NEW SECTION. Sec. 17. ADOPTION.** (1) The state registrar shall amend the birth record of a child born in state to reflect an adoption decree received from a Washington state court of competent jurisdiction upon receipt of:

(a) An application to register an adoption;

(b) A certified copy of the adoption decree entered pursuant to chapter 26.33 RCW; and

(c) Applicable fees established under this chapter and by rule.

(2) The state registrar shall amend the live birth record of a child born in state to reflect an adoption report from any other state or territory of the United States, and the District of Columbia, upon receipt of:

(a) A certified copy of an adoption report, or an application to register an adoption and a certified copy of the adoption decree; and

(b) Applicable fees established under this chapter and by rule.

(3) The state registrar shall register the birth of a child born outside the United States and its territories and adopted after January 1, 1985, in a Washington state court of competent jurisdiction upon receipt of:

(a) An application to register an adoption;

(b) A certified copy of a decree of adoption entered pursuant to chapter 26.33 RCW; and

(c) Applicable fees established under this chapter and by rule.

(4) The state registrar shall register the birth of a child born outside the United States and its territories and adopted before January 1, 1985, in a Washington state court of competent jurisdiction upon receipt of:

(a) An application to register an adoption;

(b) A certified copy of a decree of adoption entered pursuant to chapter 26.33 RCW;

(c) Documentary evidence as to the child's birthdate and birthplace provided by:

(i) The original birth certification;

(ii) A certified copy, extract, or translation of the original birth certification;

or

(iii) A certified copy of another document essentially equivalent to the original birth certification including, but not limited to, the records of the United States citizenship and immigration services or the United States department of state; and

(d) Applicable fees established under this chapter and by rule.

(5) The state registrar shall retain and seal the original birth record including the adoption report, certified copy of the adoption decree, and other documentary evidence filed pursuant to chapter 26.33 RCW. The sealed record is not subject to public inspection or copying pursuant to chapter 42.56 RCW and may be released only as allowed by RCW 26.33.345.

**NEW SECTION. Sec. 18. AMENDING VITAL RECORDS.** (1) The state registrar may amend certification items on state vital records.

(2) The state registrar may amend a live birth record to change the name of a person born in state:

(a) Upon receipt of a complete and signed amendment application with applicable fees and a certified copy of an order of a court of competent jurisdiction, including the name of the person as it appears on the current live birth record and the new name to be designated on the amended live birth record, under RCW 4.24.130; or

(b) As authorized under 18 U.S.C. Sec. 3521, the federal witness relocation and protection act.

(3) The state registrar shall seal the original live birth record amended under subsection (2)(b) of this section. The sealed record is not subject to public inspection and copying under chapter 42.56 RCW except upon order of a court of competent jurisdiction.

(4) The state registrar may amend a vital record to change the sex designation of the subject of the record. The state registrar shall include a nonbinary option for sex designation on the record.

(5) The state registrar may amend vital records for purposes other than those established in this section.

(6) The state registrar may deny an application to amend a vital record when:

(a) The application is not completed or filed in accordance with this chapter;

(b) The state registrar has cause to question the validity or adequacy of the applicant's statements or documentary evidence; or

(c) The deficiencies under (a) or (b) of this subsection are not addressed to the satisfaction of the state registrar.

(7) The state registrar shall provide notice of the denial of an application to amend a vital record and state the reasons for the denial. If the state registrar denies an amendment to a vital record under the provisions of this section, a person may appeal the decision under section 23 of this act.

**NEW SECTION. Sec. 19. PRESERVING VITAL RECORDS.** (1) The state registrar shall develop and implement a preservation management policy

for the vital records system for permanent preservation while in the custody of the state registrar.

(2) The state registrar shall transfer the custody of vital records to the state archives in accordance with state archival procedures when:

- (a) One hundred years have elapsed after the date of live birth or fetal death;
- (b) Twenty-five years have elapsed after the date of death; and
- (c) Twenty-five years have elapsed after the date of marriage, divorce, dissolution of marriage, dissolution of domestic partnership, declaration of invalidity of marriage, declaration of invalidity of domestic partnership, or legal separation.

(3) The state archives may provide noncertified copies of original vital records in the custody of the state archives, due to a transfer under subsection (2) of this section, to the public.

(4) The state archives may not:

(a) Charge the department a fee or pass along costs to transfer the vital records to state archives or maintain the vital records in the state archives, other than those charged through the central services billing model for the cost of operating the state archives; or

(b) Alter, amend, or delete certification items on the vital records.

(5) Sealed records must remain sealed and in the custody of the department.

(6) In consultation with the state archives, the state registrar shall prescribe the format and method of delivery of vital records transferred to the state archives.

(7) The department may retain records for the purpose of issuing certifications under section 21 of this act.

**NEW SECTION. Sec. 20. DISCLOSURE OF VITAL RECORDS, DATA, AND VITAL STATISTICS.** (1) The department may disclose vital records information for persons named in any birth, death, or fetal death record only as provided under this chapter.

(2) Proposals for research and public health purposes must be reviewed and approved as to scientific merit and adequacy of confidentiality safeguards in accordance with this section.

(3) The department may release birth and fetal death record data that includes direct identifiers for research with approval of the state institutional review board and receipt of a signed confidentiality agreement with the department.

(4) The department may release birth and fetal death record data that includes direct identifiers for nonresearch public health purposes to a government agency upon receipt of a signed written data-sharing agreement with the department.

(5) The department may release birth and fetal death record data that contains only indirect identifiers to anyone upon receipt of a signed written data-sharing agreement with the department.

(6) The department may release death record data to anyone upon approval of the department and receipt of a signed written data-sharing agreement with the department.

(7) A written data-sharing agreement required under subsections (4) through (6) and (14) through (17) of this section must, at a minimum:

(a) Include a description of the type of data needed and the purpose for how the data will be used;

(b) Include the methods to be used to protect the confidentiality and security of the data;

(c) State that ownership of the data provided under this section remains with the department, and is not transferred to those authorized to receive and use the data under the agreement; and

(d) Include the applicable fees for use of the data.

(8) In addition to the conditions required by subsection (7) of this section, the written data-sharing agreement for birth and fetal death record data for public health purposes under subsection (4) of this section must:

(a) Prohibit redisclosure of any direct or indirect identifiers without explicit permission from the department; and

(b) Prohibit the recipient of the data from contacting or attempting to contact the person whose information is included in the data set or that person's family members without explicit permission from the department.

(9) In addition to the conditions required by subsection (7) of this section, the written data-sharing agreement for birth or fetal death record data with indirect identifiers under subsection (5) of this section must prohibit the recipient of the data from attempting to determine the identity of persons whose information is included in the data set or use the data in any manner that identifies individuals or their family members.

(10) The department and the state institutional review board shall apply the most restrictive law governing data release to proposals for research and public health purposes requesting data sets with direct identifiers for linkage to other data sets.

(11) The department may provide the fewest birth and fetal death record data elements necessary for the purpose described in the proposal for research or public health purposes.

(12) The department may deny a request for data for cause including, but not limited to, when:

(a) Indirect identifiers are sufficient for the purpose described in the proposal for research or public health purposes;

(b) The research or public health proposal lacks scientific merit;

(c) The department lacks resources or the request would result in an unreasonable use of resources related to data preparation and analysis;

(d) The requestor cannot meet the requirements in a data-sharing agreement for protecting the confidentiality of the data; or

(e) The requestor is out of compliance with an existing data-sharing agreement.

(13) The department must provide notice of the denial to the requestor and include a statement of the reasons for the denial. If the state registrar denies a request for data under the provisions of this section, a person may appeal the decision under section 23 of this act.

(14) The department may release vital records to government agencies in the conduct of official duties upon approval of the state registrar and receipt of a signed written data-sharing agreement with the department that prohibits redisclosure of any direct or indirect identifiers without explicit permission from the department. Vital records information released by the department under this

subsection may be limited to only the information necessary to perform the official duties of the agencies to which the information is released. The department may deny requests according to subsection (12) of this section. Government agencies may access records electronically and use of records must be limited to the information needed for official business. The agreement may include cost sharing for support of the electronic system.

(15) The department shall make available to the department of social and health services, division of child support, the social security numbers of parents listed on birth records as required for establishing child support upon receipt of a signed written data-sharing agreement with the department.

(16) The department may release vital records to the national center for health statistics to be used solely for national statistics upon approval of the state registrar and receipt of a signed written data-sharing agreement with the department.

(17) The department may release copies of vital records through an interjurisdictional exchange agreement to offices of vital statistics in states or territories of the United States, the District of Columbia, New York City, or neighboring countries. The records must relate to a resident of, a person born in, or a person who died in the requesting state, territory, the District of Columbia, New York City, or neighboring country.

(18) The department may release indices of death, marriage, and divorce records annually to the state archives.

(19) Nothing in this chapter may be construed as giving authority to the state or local registrar, department, government agencies, or data recipients to sell or provide access to lists of individuals when requested for commercial purposes.

(20) For the purposes of this section:

(a) "Data" means a data file containing multiple records.

(b) "Direct identifier" means a single data element that identifies an individual person.

(c) "Indirect identifier" means a single data element that on its own does not identify an individual person, but when combined with other indirect identifiers can be used to identify an individual person.

(d) "Public health purpose" means a purpose that seeks to support or evaluate public health activities which include, but are not limited to, health surveillance; identifying population health trends; health assessments; implementing educational programs; program evaluation; developing and implementing policies; determining needs for access to services and administering services; creating emergency response plans; promoting healthy lifestyles; and preventing, detecting, and responding to infectious diseases, injury, and chronic and inheritable conditions. Public health purpose does not include research as defined in this section.

(e) "Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes.

**NEW SECTION. Sec. 21. CERTIFICATIONS AND INFORMATIONAL COPIES FROM THE VITAL RECORDS SYSTEM.** (1)(a) A certification



issued in accordance with this section is considered for all purposes the same as the original vital record and is prima facie evidence of the facts stated therein.

(b) An informational copy is not considered the same as the original vital record and does not serve as prima facie evidence of the facts stated therein.

(2) The state and local registrar shall issue all certifications registered in the vital records system from the state's central vital records system database upon submission by a qualified applicant of all required information and documentation required either by this chapter or by rule, or both, and shall ensure that all certifications include:

(a) The date of registration; and

(b) Security features that deter altering, counterfeiting, or simulation without ready detection as required under this chapter.

(3) A person requesting a certification of birth, death, or fetal death must submit an application, identity documentation, evidence of eligibility, and the applicable fee established in section 24 of this act to the state or local registrar.

(4) For a certification of birth, the state or local registrar may release the certification only to:

(a) The subject of the record or the subject of the record's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, legal guardian, legal representative, or authorized representative; or

(b) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(5) The state registrar may issue an heirloom certification of birth to a qualified applicant consistent with subsection (4) of this section. The heirloom certification of birth must contain the state seal and be signed by the governor.

(6) The state registrar may issue a certification of a birth record registered as delayed under section 11 or 12 of this act to a qualified applicant consistent with subsection (4) of this section. The certification must:

(a) Be marked as delayed; and

(b) Include a description of the evidence or court order number used to establish the delayed record.

(7) The state registrar may issue a certification of a birth record for a person adopted under chapter 26.33 RCW and registered under section 17 of this act to a qualified applicant consistent with subsection (4) of this section. The certification:

(a) Must not include reference to the adoption of the child; and

(b) For children born outside of the state, must be issued consistent with the certification standards of this section, unless the court orders otherwise.

(8) When providing a birth certification to a qualified applicant under this chapter, the state or local registrar shall include information prepared by the department setting forth the advisability of a security freeze under RCW 19.182.230 and the process for acquiring a security freeze.

(9) For a certification of death, the state or local registrar may release the certification only to:

(a) The decedent's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, legal guardian immediately prior to death, legal representative, authorized representative, or next of kin as specified in RCW 11.28.120;

(b) A funeral director, the funeral establishment licensed pursuant to chapter 18.39 RCW, or the person having the right to control the disposition of the human remains under RCW 68.50.160 named on the death record, within twelve months of the date of death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(10) The state or local registrar may issue a short form certification of death that does not display information relating to cause and manner of death to a qualified applicant. In addition to the qualified applicants listed in subsection (9) of this section, a qualified applicant for a short form certification of death includes:

(a) A title insurer or title insurance agent handling a transaction involving real property in which the decedent held some right, title, or interest; or

(b) A person that demonstrates that the certified copy is necessary for a determination related to the death or the protection of a personal or property right related to the death.

(11) For a certification of fetal death, the state or local registrar may release the certification only to:

(a) A parent, a parent's legal representative, an authorized representative, a sibling, or a grandparent;

(b) The funeral director or funeral establishment licensed pursuant to chapter 18.39 RCW and named on the fetal death record, within twelve months of the date of fetal death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(12) The state or local registrar shall review the identity documentation and evidence of eligibility to determine if the person requesting the certification is a qualified applicant under this section. The state or local registrar may verify the identity documents and evidence of eligibility to determine the acceptability and authenticity of identity documentation and evidence of eligibility.

(13) The state or local registrar may not issue a certification of birth or fetal death that includes information from the confidential section of the birth or fetal death record, except as provided in subsection (14) of this section.

(14) The state registrar may release information contained in the confidential section of the birth record only to the following persons:

(a) The individual who is the subject of the birth record, upon confirmation of documentation and evidence of identity of the requestor in a manner approved by the state board of health and the department. The state registrar must limit the confidential information provided to the individual who is the subject of the birth record's information, and may not include the parent's confidential information; or

(b) A member of the public, upon order of a court of competent jurisdiction.

(15) A person requesting a certification of marriage, dissolution of marriage, or dissolution of domestic partnership currently held by the department must submit an application and the applicable fee established in section 24 of this act to the state registrar.

(16) The state registrar may mark deceased on a birth certification when that birth record is matched to a death record under section 7 of this act.

(17) The state or local registrar must issue an informational copy from the central vital records system to anyone. Informational copies must contain only the information allowed by rule. Informational copies of death records must not display information related to cause and manner of death.

(18) A person requesting an informational copy must submit an application and the applicable fee established in section 24 of this act to the state or local registrar.

(19) If no record is identified as matching the information provided in the application, the state or local registrar shall issue a document indicating that a search of the vital records system was made and no matching record was identified.

(20) All government agencies or courts to whom certifications or informational copies are issued must pay the applicable fee for certifications established in section 24 of this act.

(21) The state or local registrar must comply with the requirements of this chapter when issuing a certification or informational copy of a vital life event.

(22) The department may issue, through electronic means and processes determined by the department, verifications of information contained on birth or death records filed with the department when a verification is requested by a government agency, insurance company, hospital, or any other organization in the conduct of its official duties for fraud prevention and good governance purposes as determined by the department. The department shall charge a fee for a search under this subsection.

(23) For the purposes of this section, a "qualified applicant" means a person who is eligible to receive a certification of a vital record based on the standards established by this chapter and department rule.

**NEW SECTION. Sec. 22.** DISCLOSURE GOVERNED BY THIS CHAPTER. (1) All or part of any vital records, reports, supporting documentation, vital statistics, data, or information contained therein are not subject to public inspection and copying under chapter 42.56 RCW.

(2) With the exception of certifications and informational copies issued under section 21 of this act, or unless otherwise authorized by this chapter, no person may permit the inspection of, disclose data or information contained in, or copy or issue a copy of all or part of any vital records, reports, supporting documentation, vital statistics, data, or information contained therein.

**NEW SECTION. Sec. 23.** ADJUDICATIVE PROCEEDINGS. (1) This section governs any case in which the state registrar takes one of the following adverse actions:

(a) Denies or revokes registration of a report or application for an amendment;

(b) Withholds or denies issuance of a certification under this chapter; or

(c) Denies a request for data under section 20 of this act.

(2) This section does not govern denied applications for delayed birth registration under section 11 of this act, or amendments due to legal name change, adoption, or parentage, which require court orders.

(3) RCW 43.70.115 does not govern adjudications under this chapter.

(4) The department shall give written notice to the applicant when it denies or revokes registration of a report or application for certification, or withholds

issuance of a certification. The written notice must state the reasons for the action and be served on the applicant or person to whom the record pertains. "Service" means posting in the United States mail, delivery to a commercial parcel delivery company, or personal service. Service by mail is complete upon deposit of the notice in the United States mail. Service by a commercial parcel delivery company is complete upon delivery to the commercial parcel delivery company, properly addressed, with charges prepaid.

(5) Except as otherwise provided in this subsection and in subsection (7) of this section, only revocation is effective twenty-eight days after service of the notice. The department may make the date the action is effective sooner than twenty-eight days after service when necessary to protect public health, safety, or welfare, or when deemed necessary by the state registrar for the security of the vital record. When the department does so, it shall state the effective date and the reasons supporting the effective date in the notice.

(6) Except as otherwise provided in subsection (7) of this section, denial of the registration of a report or application for an amendment under subsection (1)(a) of this section, and actions under subsection (1)(b) and (c) of this section, are effective immediately upon service of the notice.

(7) An applicant has the right to an adjudicative proceeding. The proceeding is governed by the administrative procedure act, chapter 34.05 RCW. The request for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of service of the adverse notice, and be served in a manner that shows proof of receipt.

(8) If the department gives an applicant twenty-eight days' notice of revocation and the applicant or person to whom the record pertains files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(9) If the department gives an applicant less than twenty-eight days' notice of revocation and the applicant or person to whom the record pertains timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause.

(10) The department is authorized to adopt a brief adjudicative proceeding for proceedings under this chapter, in accordance with chapter 34.05 RCW.

**NEW SECTION. Sec. 24. FEES.** (1) The department and local registrars shall charge a fee of twenty-five dollars for a certification or informational copy of a vital record or for a search of the vital records system when no matching record was identified, except as provided in subsection (2) of this section.

(2) The department and local registrars may not charge a fee for issuing a certification of:

(a) A vital record for use in connection with a claim for compensation or pension pending before the veterans administration;

(b) The death of a sex offender, for use by a law enforcement agency in maintaining a registered sex offender database; or

(c) The death of any offender, requested by a county clerk or court in the state for purposes of extinguishing the offender's legal financial obligation.

(3) The department may not charge a fee for issuing a birth certification for homeless persons as defined in RCW 43.185C.010 living in state.

(4) The department and local registrars may charge an electronic payment fee, in addition to the twenty-five dollar fee for certification and informational copy of vital records or for a search of the vital records system, in cases where payment is made by credit card, charge card, debit card, smart card, stored value card, federal wire, automatic clearinghouse system, or other electronic communication.

(5) Local registrars shall keep a true and correct account of all fees received under this section for the issuance of certifications and informational copies.

(6) A portion of the twenty-five dollar fee collected by the local registrars must be transmitted to the state treasurer on a monthly basis as follows:

(a) Thirteen dollars for each birth certification and birth informational copy issued;

(b) Thirteen dollars for each first copy of a death certification and death informational copy; and

(c) Twenty dollars for each additional death certification and death informational copy.

(7) For each fee turned over to the state treasurer by the local registrars, the state treasurer shall:

(a) Pay the department two dollars of each fee for birth certifications and birth informational copies and first copies of death certifications and death informational copies;

(b) Pay the department nine dollars of each fee for additional death certifications and death informational copies; and

(c) Hold eleven dollars of each fee in the death investigations account established under RCW 43.79.445, except for an heirloom birth certification issued under section 21 of this act.

(8) Eleven dollars of the twenty-five dollar fee collected by the department for certifications and informational copies issued by the department must be transmitted to the state treasurer for the death investigations account established under RCW 43.79.445.

(9) The department of children, youth, and families shall set a fee for an heirloom birth certification established under section 21 of this act for the children's trust fund established under RCW 43.121.100. The department shall collect the fee established under this subsection when issuing an heirloom birth certification and transmit the fees collected to the state treasurer for credit to the children's trust fund.

**NEW SECTION. Sec. 25. LOCAL REGISTRAR REPORTING.** (1) The local registrar shall, on a monthly basis, submit the following to the state registrar:

(a) A summary of the number of certifications and informational copies issued by vital life event type in a format provided by the state registrar;

(b) A log of all numbered paper certifications issued and destroyed in a format provided by the state registrar; and

(c) A copy of the accounting of fees required by section 24 of this act.

(2) The state registrar shall periodically test and audit local registrar fraud prevention procedures and products, and may share the results of such tests and audits with the local registrar.

**NEW SECTION. Sec. 26. ENFORCEMENT.** (1) All requirements of this chapter must be uniformly complied with by all local registrars in state.

(2) Local registrars are charged with the strict and thorough enforcement of the provisions of this chapter in their health jurisdictions, under the supervision and direction of the state registrar, and:

(a) Shall immediately report observed or suspected violations of this chapter to the state registrar;

(b) Shall aid the state registrar, upon request, in investigations initiated under this section; and

(c) May not issue a certification for a record that is currently under investigation under this section, or subject to an action under section 23 of this act, until such time as the state registrar allows for the issuance of such certification.

(3) The state registrar may investigate cases of irregularity or violation of this chapter. In cases where the state registrar finds reasonable cause to suspect fraud or misrepresentation, the state registrar shall:

(a) Retain the application and evidence; and

(b) Notify the appropriate authorities.

(4) The state registrar may only release the application and evidence under subsection (3)(a) of this section upon order of a court of competent jurisdiction.

(5) When the state registrar deems it necessary, the state registrar shall report cases of violation of any of the provisions of this chapter to the prosecuting attorney of the proper county with a statement of the facts and circumstances.

(6) Prosecuting attorneys, or officials acting in such capacity, shall initiate and promptly follow up the necessary court proceedings against the parties responsible for the alleged violations of law reported to them by the state registrar.

(7) The state registrar may, during the pendency of an investigation under subsection (3) of this section, or at the conclusion of an investigation under subsection (3) of this section, take any action permitted by this chapter with respect to the affected certification or record including, but not limited to, denial of issuance or revocation of the affected certification or record.

**NEW SECTION. Sec. 27. PENALTIES.** (1) Every person who violates or willfully fails, neglects, or refuses to comply with any provisions of this chapter is guilty of a misdemeanor.

(2) Every person who willfully furnishes false information or who makes any false statement to establish a vital record or obtain a certification required by this chapter is guilty of a gross misdemeanor.

**NEW SECTION. Sec. 28. APPLICABILITY.** (1) This act applies to all causes of action commenced on or after the effective date of this section, regardless of when the cause of action arose.

(2) The requirements of this act apply to all records covered by this act that are held by the department or state registrar, regardless of the date the record was created or modified.

(3) In all other respects not specifically indicated in this section, this chapter applies prospectively.

**Sec. 29.** RCW 18.39.525 and 2005 c 365 s 26 are each amended to read as follows:

(1) The director shall issue a certificate of removal registration to a funeral establishment licensed in another state contiguous to Washington, with laws substantially similar to the provisions of this section, for the limited purpose of removing human remains from Washington prior to submitting a ~~((certificate))~~ report of death. Licensed funeral establishments wishing to participate must: Apply to the department of licensing for a certificate of removal registration, on a form provided by the department, and pay the required application fee, as set by the director.

(2) For purposes of this section, each branch of a registrant's funeral establishment is a separate establishment and must be registered as a fixed place of business.

(3) Certificates of death are governed by ~~((RCW 70.58.160))~~ section 13 of this act.

(4) Notices of removal and disposition permits are governed by ~~((RCW 70.58.230))~~ section 14 of this act.

(5) The conduct of funeral directors, embalmers, or any other person employed by or acting on behalf of a removal registrant is the direct responsibility of the holder of the certificate of removal registration.

(6) The board may impose sanctions upon the holder of a certificate of removal registration if the registrant is found to be in violation of any death care statute or rule.

(7) Certificates of removal registration expire January 31st, or as otherwise determined by the director.

**Sec. 30.** RCW 19.182.220 and 2016 c 135 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 19.182.230 ~~((and 70.58.098))~~ unless the context clearly requires otherwise.

(1) "Credit report" means a consumer report, as defined in 15 U.S.C. Sec. 1681a, that is used or collected to serve as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

(2) "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m. Pacific time.

(3) "Protected consumer" means an individual who is:

(a) Under the age of sixteen years old at the time a request for the placement of a security freeze is made pursuant to RCW 19.182.230; or

(b) Incapacitated and for whom a guardian or limited guardian has been appointed.

(4) "Record" means a compilation of information that:

(a) Identifies a protected consumer;

(b) Is created by a consumer reporting agency solely for the purpose of complying with RCW 19.182.230; and

(c) May not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living for any purpose listed in RCW 19.182.020.

(5) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(6) "Security freeze" means:

(a) If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that:

(i) Is placed on the protected consumer's record in accordance with RCW 19.182.230; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in RCW 19.182.230; or

(b) If a consumer reporting agency has a file pertaining to the protected consumer, a restriction that:

(i) Is placed on the protected consumer's consumer report in accordance with RCW 19.182.230; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in RCW 19.182.230.

(7) "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected consumer, including:

(a) An order issued by a court of law;

(b) A lawfully executed and valid power of attorney; and

(c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

(8) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative of a protected consumer, including:

(a) A social security number or a copy of a social security card issued by the social security administration;

(b) A certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate;

(c) A copy of a driver's license, an identicard issued under RCW 46.20.117, or any other government-issued identification; or

(d) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address.

**Sec. 31.** RCW 26.04.090 and 2016 c 202 s 23 are each amended to read as follows:

A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:



STATE OF WASHINGTON

COUNTY OF .....



This is to certify that the undersigned, a . . . . ., by authority of a license bearing date the . . . . day of . . . . . A.D. (year) . . . . , and issued by the County auditor of the county of . . . . ., did, on the . . . . day of . . . . . A.D. (year) . . . . , at . . . . . in this county and state, join in lawful wedlock A.B. of the county of . . . . ., state of . . . . . and C.D. of the county of . . . . ., state of . . . . ., with their mutual assent, in the presence of F H and E G, witnesses.

In Testimony Whereof, witness the signatures of the parties to said ceremony, the witnesses and myself, this . . . . day of . . . . ., A.D. (year) . . . .

~~((The certificate for the files of the state registrar of vital statistics shall be in accordance with RCW 70.58.200.))~~ The certificate forms for the files of the county auditor and for the files of the state registrar of vital statistics shall be provided by the state registrar of vital statistics.

**Sec. 32.** RCW 26.04.165 and 1989 1st ex.s. c 9 s 203 are each amended to read as follows:

In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of health marriage certificate form ~~((prescribed by RCW 70.58.200))~~ provided by the state registrar of vital statistics to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics. After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married.

**Sec. 33.** RCW 26.09.150 and 2008 c 6 s 1016 are each amended to read as follows:

(1) A decree of dissolution of marriage or domestic partnership, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage or domestic partnership is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry or enter into a domestic partnership pending such an appeal.

(2)(a) No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage or domestic partnership. The clerk of court shall complete the certificate ~~((as provided for in RCW 70.58.200))~~ on the form provided by the department of health. On or before the tenth day of each month,

the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage or domestic partnership, annulment, or separate maintenance granted during the preceding month.

(b) Once a month, the state registrar of vital statistics shall prepare a list of persons for whom a certificate of dissolution of domestic partnership was transmitted to the registrar and was not included in a previous list, and shall supply the list to the secretary of state.

(3) Upon request of a party whose marriage or domestic partnership is dissolved or declared invalid, the court shall order a former name restored or the court may, in its discretion, order a change to another name.

**Sec. 34.** RCW 35A.70.070 and 1987 c 223 s 4 are each amended to read as follows:

Every code city may exercise the powers authorized and shall perform the duties imposed upon cities of like population relating to the public health and safety as provided by Title 70 RCW and, without limiting the generality of the foregoing, shall: (1) Organize boards of health and appoint a health officer with the authority, duties and functions as provided in chapter 70.05 RCW, or provide for combined city-county health departments as provided and in accordance with the provisions of chapter 70.08 RCW; (2) contribute and participate in public health pooling funds as authorized by chapter 70.12 RCW; (3) control and provide for treatment of (~~veneral~~) sexually transmitted diseases as authorized by chapter 70.24 RCW; (4) provide for the care and control of tuberculosis as provided in chapters 70.28, 70.30, (~~(70.32,)~~) and 70.54 RCW; (5) participate in health districts as authorized by chapter 70.46 RCW; (6) exercise control over water pollution as provided in chapter 35.88 RCW; (7) for all code cities having a population of more than twenty thousand serve as a primary district for registration of vital statistics in accordance with the provisions of chapter (~~(70.58 RCW)~~) 70.--- RCW (the new chapter created in section 44 of this act); (8) observe and enforce the provisions relating to fireworks as provided in chapter 70.77 RCW; (9) enforce the provisions relating to swimming pools provided in chapter 70.90 RCW; (10) enforce the provisions of chapter 18.20 RCW when applicable; (11) perform the functions relating to (~~(mentally ill)~~) persons with mental illness prescribed in chapters 72.06 and 71.12 RCW; (12) cooperate with the state department of social and health services in mosquito control as authorized by RCW 70.22.060; and (13) inspect nursing homes as authorized by RCW 18.51.145.

**Sec. 35.** RCW 43.79.445 and 2018 c 299 s 922 are each amended to read as follows:

There is established an account in the state treasury referred to as the "death investigations account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in (~~(RCW 70.58.107)~~) section 24 of this act and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the state patrol for providing partial

funding for the state dental identification system, the criminal justice training commission for training county coroners, medical examiners and their staff, and the state forensic investigations council. Funds from the death investigations account may be appropriated during the 2013-2015 fiscal biennium for the activities of the state crime laboratory within the Washington state patrol.

**Sec. 36.** RCW 43.121.100 and 2018 c 58 s 14 are each amended to read as follows:

Contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter ~~((70.58 RCW))~~ 70.--- RCW (the new chapter created in section 44 of this act) from persons, associations, or corporations and funds generated through the issuance of the "Keep Kids Safe" license plate under chapter 46.18 RCW, shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the secretary of the department of children, youth, and families beginning July 1, 2012. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds.

**Sec. 37.** RCW 68.50.300 and 2012 c 117 s 318 are each amended to read as follows:

(1) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may in such official's discretion release information concerning a person's death to the media and general public, in order to aid in identifying the deceased, when the identity of the deceased is unknown to the official and when he or she does not know the information to be readily available through other sources.

(2)~~(a)~~ The county coroner, medical examiner, or prosecuting attorney may withhold any information which directly or indirectly identifies a decedent until either:

~~((a))~~ (i) A notification period of forty-eight hours has elapsed after identification of the decedent by such official; or

~~((b))~~ (ii) The next of kin of the decedent has been notified.

(b) During the forty-eight hour notification period, such official shall make a good faith attempt to locate and notify the next of kin of the decedent.

(3) The county coroner, medical examiner, or prosecuting attorney having jurisdiction may release information contained in a report of death, as defined in chapter 70.--- RCW (the new chapter created in section 44 of this act), to the media and general public.

**Sec. 38.** RCW 74.20A.056 and 2018 c 150 s 108 are each amended to read as follows:

(1) If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state registrar of vital statistics before July 1, 1997, the division of child support may serve a notice and finding of parental responsibility on him and the custodial parent. Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in subsections (8) and (9) of this section. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested, on the alleged father. The custodial parent shall be served by first-class mail to the last

known address. If the custodial parent is not the nonassistance applicant or public assistance recipient, service shall be in the same manner as for the responsible parent. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the state registrar of vital statistics, and shall state that:

(a) Either or both parents are responsible for providing health care coverage for their child either through health insurance or public health care coverage, which is accessible to the child, or through coverage that if coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related, or for paying a monthly payment toward the premium if no such coverage is available, as provided under RCW 26.09.105;

(b) The alleged father or custodial parent may file an application for an adjudicative proceeding at which they both will be required to appear and show cause why the amount stated in the notice as to support is incorrect and should not be ordered;

(c) An alleged father or mother, if she is also the custodial parent, may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and

(d) If neither the alleged father nor the custodial parent requests that a blood or genetic test be administered or files an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under RCW 26.26.500 through 26.26.630 that the parent-child relationship does not exist.

(2) An alleged father or custodial parent who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department. A custodian who is not the parent of a child and who has physical custody of a child has the same notice and hearing rights that a custodial parent has under this section.

(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(b) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father or the mother, if she is also the custodial parent, may request that a blood or genetic test be administered at any time. The request for testing shall be in writing, or as the department may specify by rule, and served on the division of child support. If a request for testing is made, the department

shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's and mother's, if she is also the custodial parent, last known address.

(5) If the test excludes the alleged father from being a natural parent, the division of child support shall file a copy of the results with the state registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father or mother, if she is also the custodial parent, may, within twenty days after the date of receipt of the test results, request the division of child support to initiate an action under RCW 26.26.500 through 26.26.630 to determine the existence of the parent-child relationship. If the division of child support initiates a superior court action at the request of the alleged father or mother and the decision of the court is that the alleged father is a natural parent, the parent who requested the test shall be liable for court costs incurred.

(7) If the alleged father or mother, if she is also the custodial parent, does not request the division of child support to initiate a superior court action, or fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.500 through 26.26.630.

(8)(a) Subsections (1) through (7) of this section do not apply to acknowledgments of paternity filed with the state registrar of vital statistics after July 1, 1997.

(b) If an acknowledged father has signed an acknowledgment of paternity that has been filed with the state registrar of vital statistics after July 1, 1997:

(i) The division of child support may serve a notice and finding of financial responsibility under RCW 74.20A.055 based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of paternity to the notice;

(ii) The notice shall include a statement that the acknowledged father or any other signatory may commence a proceeding in court to rescind or challenge the acknowledgment or denial of paternity under RCW 26.26.330 and 26.26.335;

(iii) A statement that either or both parents are responsible for providing health care coverage for the child if accessible coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related as provided under RCW 26.09.105; and

(iv) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order.

(c) If neither the acknowledged father nor the other party to the notice files an application for an adjudicative proceeding or the signatories to the

acknowledgment or denial do not commence a proceeding to rescind or challenge the acknowledgment of paternity, the amount of support stated in the notice and finding of financial responsibility becomes final, subject only to a subsequent determination under RCW 26.26.500 through 26.26.630 that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or RCW 74.20A.055, even if a court later determines that the acknowledgment is void.

(d) An acknowledged father or other party to the notice who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged father is later found not to be a responsible parent.

(e) If neither the acknowledged father nor the custodial parent requests an adjudicative proceeding, or if no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under RCW 26.26.500 through 26.26.630.

(9) Acknowledgments of paternity that are filed after July 1, 1997, are subject to requirements of chapters 26.26, the uniform parentage act, and ((70.58 RCW)) 70.--- RCW (the new chapter created in section 44 of this act).

(10) The department and the department of health may adopt rules to implement the requirements under this section.

(11) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

**NEW SECTION. Sec. 39.** A new section is added to chapter 42.56 RCW to read as follows:

All or part of any vital records, reports, supporting documentation, vital statistics, data, or information contained therein under chapter 70.--- RCW (the new chapter created in section 44 of this act) are not subject to public inspection and copying under this chapter.

**NEW SECTION. Sec. 40.** The following acts or parts of acts are each repealed:

(1) RCW 43.70.160 (Duties of registrar) and 1989 1st ex.s. c 9 s 255, 1967 c 26 s 2, & 1965 c 8 s 43.20.080;

(2) RCW 70.58.005 (Definitions) and 2015 3rd sp.s. c 1 s 412, 2015 c 225 s 103, 2009 c 231 s 1, 2005 c 365 s 151, 1991 c 3 s 342, & 1987 c 223 s 1;

(3) RCW 70.58.010 (Registration districts) and 2012 c 117 s 383, 1979 ex.s. c 52 s 2, 1951 c 106 s 4, 1915 c 180 s 1, & 1907 c 83 s 2;

(4) RCW 70.58.020 (Local registrars—Deputies) and 2012 c 117 s 384, 1979 ex.s. c 52 s 3, 1961 ex.s. c 5 s 5, 1951 c 106 s 5, 1915 c 180 s 2, & 1907 c 83 s 3;

(5) RCW 70.58.030 (Duties of local registrars) and 1990 c 99 s 1, 1961 ex.s. c 5 s 6, & 1907 c 83 s 18;

(6) RCW 70.58.040 (Compensation of local registrars) and 2012 c 117 s 385, 1961 ex.s. c 5 s 7, 1951 c 106 s 8, 1915 c 180 s 10, & 1907 c 83 s 19;

(7) RCW 70.58.050 (Duty to enforce law) and 2012 c 117 s 386 & 1907 c 83 s 22;

(8) RCW 70.58.055 (Certificates generally) and 2009 c 44 s 1, 1997 c 58 s 948, & 1991 c 96 s 1;

(9) RCW 70.58.061 (Electronic and hard copy transmission) and 1991 c 96 s 2;

(10) RCW 70.58.065 (Local registrar use of electronic databases) and 1991 c 96 s 3;

(11) RCW 70.58.070 (Registration of births required) and 1907 c 83 s 11;

(12) RCW 70.58.080 (Birth certificates—Filing—Establishing paternity—Surname of child) and 2002 c 302 s 708, 1997 c 58 s 937, 1989 c 55 s 2, 1961 ex.s. c 5 s 8, 1951 c 106 s 6, & 1907 c 83 s 12;

(13) RCW 70.58.082 (Vital records—Rules—Release of copies) and 2005 c 365 s 152 & 1997 c 108 s 1;

(14) RCW 70.58.085 (Birth certificates suitable for display—Issuance—Fee—Disposition of funds) and 2004 c 53 s 1 & 1987 c 351 s 6;

(15) RCW 70.58.095 (New certificate of birth—Legitimation, paternity—Substitution for original—Inspection of original, when—When delayed registration required) and 2012 c 117 s 387, 1983 1st ex.s. c 41 s 14, 1975-'76 2nd ex.s. c 42 s 38, & 1961 ex.s. c 5 s 21;

(16) RCW 70.58.098 (Information regarding credit report security freeze) and 2016 c 135 s 3;

(17) RCW 70.58.100 (Supplemental report on name of child) and 1915 c 180 s 8 & 1907 c 83 s 14;

(18) RCW 70.58.104 (Reproductions of vital records—Disclosure of information for research purposes—Furnishing of birth and death records by local registrars) and 1991 c 96 s 4 & 1987 c 223 s 2;

(19) RCW 70.58.107 (Fees charged by department and local registrars) and 2007 c 200 s 2 & 2007 c 91 s 2;

(20) RCW 70.58.110 (Delayed registration of births—Authorized) and 1953 c 90 s 2, 1943 c 176 s 1, & 1941 c 167 s 1;

(21) RCW 70.58.120 (Delayed registration of births—Application—Evidence required) and 1961 ex.s. c 5 s 9, 1953 c 90 s 3, 1943 c 176 s 2, & 1941 c 167 s 2;

(22) RCW 70.58.130 (Delayed registration of births—Where registered—Copy as evidence) and 1961 ex.s. c 5 s 10, 1953 c 90 s 4, 1951 c 106 s 2, 1943 c 176 s 4, & 1941 c 167 s 4;

(23) RCW 70.58.145 (Order establishing record of birth when delayed registration not available—Procedure) and 2012 c 117 s 388 & 1961 ex.s. c 5 s 20;

(24) RCW 70.58.150 ("Fetal death," "evidence of life," defined) and 1961 ex.s. c 5 s 11 & 1945 c 159 s 5;

(25) RCW 70.58.160 (Certificate of death or fetal death required) and 2005 c 365 s 153, 1961 ex.s. c 5 s 12, & 1945 c 159 s 1;

(26) RCW 70.58.170 (Certificate of death or fetal death—By whom filed) and 2009 c 231 s 2, 2005 c 365 s 154, 2000 c 133 s 1, 1979 ex.s. c 162 s 1, 1961 ex.s. c 5 s 13, & 1945 c 159 s 2;

(27) RCW 70.58.175 (Certificate of death—Domestic partnership information) and 2007 c 156 s 32;

(28) RCW 70.58.180 (Certificate when no physician, physician's assistant, or advanced registered nurse practitioner in attendance—Legally accepted cause of death) and 2009 c 231 s 3, 2005 c 365 s 155, 2000 c 133 s 2, 1961 ex.s. c 5 s 14, 1953 c 188 s 5, & 1945 c 159 s 3;

(29) RCW 70.58.190 (Permit to dispose of human remains when cause of death undetermined) and 2005 c 365 s 156 & 1945 c 159 s 4;

(30) RCW 70.58.210 (Birth certificate upon adoption) and 1979 ex.s. c 101 s 2, 1975-'76 2nd ex.s. c 42 s 40, 1943 c 12 s 1, & 1939 c 133 s 1;

(31) RCW 70.58.230 (Permits for burial, removal, etc., required—Removal to another district without permit, notice to registrar, fee) and 2009 c 231 s 4, 2005 c 365 s 157, 1961 ex.s. c 5 s 16, 1915 c 180 s 3, & 1907 c 83 s 4;

(32) RCW 70.58.240 (Duties of funeral directors) and 2009 c 231 s 5, 2005 c 365 s 158, 1961 ex.s. c 5 s 17, 1915 c 180 s 6, & 1907 c 83 s 8;

(33) RCW 70.58.250 (Burial-transit permit—Requisites) and 2009 c 231 s 6, 1961 ex.s. c 5 s 18, & 1907 c 83 s 9;

(34) RCW 70.58.260 (Burial grounds—Duties of individual in charge of the premises) and 2009 c 231 s 7, 2005 c 365 s 159, 1915 c 180 s 7, & 1907 c 83 s 10;

(35) RCW 70.58.270 (Data on inmates of hospitals, etc.) and 2012 c 117 s 389 & 1907 c 83 s 16;

(36) RCW 70.58.280 (Penalty) and 2003 c 53 s 353, 1915 c 180 s 12, & 1907 c 83 s 21;

(37) RCW 70.58.380 (Certificates for out-of-state marriage license requirements) and 1981 c 284 s 1;

(38) RCW 70.58.390 (Certificates of presumed death) and 2005 c 365 s 160 & 1981 c 176 s 1;

(39) RCW 70.58.400 (Certificate of death—Presence of methicillin-resistant staphylococcus aureus (MRSA)) and 2009 c 244 s 3; and

(40) RCW 70.58.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 153.

**NEW SECTION. Sec. 41. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.



**NEW SECTION. Sec. 42.** EFFECTIVE DATE. Except for sections 3 and 43 of this act, this act takes effect January 1, 2021.

**NEW SECTION. Sec. 43.** The secretary and state board of health may adopt rules as authorized by this act to ensure that the sections in this act are implemented on their effective dates.

**NEW SECTION. Sec. 44.** CODIFICATION DIRECTIVE. Sections 1 through 28 and 42 of this act constitute a new chapter in Title 70 RCW.

Passed by the Senate March 4, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 149

[Substitute Senate Bill 5394]

### LIQUOR LICENSEES--PROMOTING EVENTS ONLINE

AN ACT Relating to liquor licensees' use of web sites and social media to promote events; and amending RCW 66.28.310.

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

**Sec. 1.** RCW 66.28.310 and 2015 c 94 s 1 are each amended to read as follows:

(1)(a) Nothing in RCW 66.28.305 prohibits an industry member from providing retailers branded promotional items which are of nominal value, singly or in the aggregate. Such items include but are not limited to: Trays, lighters, blotters, postcards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(i) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(iii) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(iv) May not be targeted to or appeal principally to youth.

(b) An industry member is not obligated to provide any such branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(c) Any industry member or retailer or any other person asserting that the provision of branded promotional items as allowed in (a) of this subsection has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in (a) of this subsection may file a complaint with the board. Upon receipt of a complaint the board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the provision of branded promotional items has resulted in or is more likely than not to result in undue

influence or has resulted or is more likely than not to result in an adverse impact on public health and safety or is otherwise inconsistent with (a) of this subsection the board may issue an administrative violation notice to the industry member, to the retailer, or both. The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(2) Nothing in RCW 66.28.305 prohibits:

(a) An industry member from providing to a special occasion licensee and a special occasion licensee from receiving services for:

(i) Installation of draft beer dispensing equipment or advertising;

(ii) Advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event; or

(iii) Pouring or dispensing of spirits by a licensed domestic distiller or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310; or

(b) Special occasion licensees from paying for beer, wine, or spirits immediately following the end of the special occasion event; or

(c) Wineries, breweries, or distilleries that are participating in a special occasion event from paying reasonable booth fees to the special occasion licensee.

(3) Nothing in RCW 66.28.305 prohibits industry members from performing, and retailers from accepting the service of building, rotating, and restocking displays and stockroom inventories; rotating and rearranging can and bottle displays of their own products; providing point of sale material and brand signs; pricing case goods of their own brands; and performing such similar business services consistent with board rules, or personal services as described in subsection (5) of this section.

(4) Nothing in RCW 66.28.305 prohibits:

(a) Industry members from listing on their internet web sites information related to retailers who sell or promote their products, including direct links to the retailers' internet web sites; (~~and~~)

(b) Retailers from listing on their internet web sites information related to industry members whose products those retailers sell or promote, including direct links to the industry members' web sites; (~~or~~)

(c) Manufacturers, distributors, or their licensed representatives from using web sites or social media accounts in their name to post, repost, or share promotional information or images about events featuring a product of the manufacturer's own production or a product sold by the distributor, held at an on-premises licensed liquor retailer's location or a licensed special occasion event. The promotional information may include links to purchase event tickets. Manufacturers, distributors, or their licensed representatives may not pay a third party to enhance viewership of a specific post. Industry members, or their licensed representatives, are not obligated to post, repost, or share information or images on a web site or on social media. A licensed liquor retailer may not require an industry member or their licensed representative to post, repost, or share information or images on a web site or on social media as a condition for selling any alcohol to the retailer or participating in a retailer's event; or

(d) Industry members and retailers from producing, jointly or together with regional, state, or local industry associations, brochures and materials promoting

tourism in Washington state which contain information regarding retail licensees, industry members, and their products.

(5) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic winery or certificate of approval holder to retailers when the personal services are (a) conducted at a licensed premises, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities at the premises of a retailer holding a spirits, beer, and wine restaurant license, a wine and/or beer restaurant license, a specialty wine shop license, a special occasion license, a grocery store license with a tasting endorsement, or a private club license. A domestic winery or certificate of approval holder is not obligated to perform any such personal services, and a retail licensee may not require a domestic winery or certificate of approval holder to conduct any personal service as a condition for selling any alcohol to the retail licensee, or as a condition for including any product of the domestic winery or certificate of approval holder in any tasting conducted by the licensee. Except as provided in RCW 66.28.150, the cost of sampling may not be borne, directly or indirectly, by any domestic winery or certificate of approval holder or any distributor. Nothing in this section prohibits wineries, breweries, microbreweries, certificate of approval holders, and retail licensees from identifying the producers on private labels authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

(6) Nothing in RCW 66.28.305 prohibits an industry member from entering into an arrangement with any holder of a sports entertainment facility license or an affiliated business for brand advertising at the licensed facility or promoting events held at the sports entertainment facility as authorized under RCW 66.24.570.

(7) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic brewery, microbrewery, or beer certificate of approval holder to grocery store licensees with a tasting endorsement when the personal services are (a) conducted at a licensed premises in conjunction with a tasting event, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities. A domestic brewery, microbrewery, or beer certificate of approval holder is not obligated to perform any such personal services, and a grocery store licensee may not require the performance of any personal service as a condition for including any product in any tasting conducted by the licensee.

(8) Nothing in RCW 66.28.305 prohibits an arrangement between a domestic winery and a restaurant licensed under RCW 66.24.320 or 66.24.400 to waive a corkage fee.

(9) Nothing in this section prohibits professional sports teams who hold a retail liquor license or their agents from accepting bona fide liquor advertising from manufacturers, importers, distributors, or their agents for use in the sporting arena. Professional sports teams who hold a retail liquor license or their agents may license the manufacturer, importer, distributor, or their agents to use

the name and trademarks of the professional sports team in their advertising and promotions, under the following conditions:

(a) Such advertising must be paid for by said manufacturer, importer, distributor, or their agent at the published advertising rate or at a reasonable fair market value.

(b) Such advertising may carry with it no express or implied offer on the part of the manufacturer, importer, distributor, or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

(10) Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it existed on July 24, 2015, for use consistent with the purpose or purposes entitling it to such exemption.

Passed by the Senate March 7, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 150

[Senate Bill 5404]

### FISH HABITAT ENHANCEMENT PROJECTS--KELP, EELGRASS, AND OYSTERS

AN ACT Relating to expanding the definition of fish habitat enhancement projects; and amending RCW 77.55.181 and 90.58.147.

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

**Sec. 1.** RCW 77.55.181 and 2017 c 241 s 1 are each amended to read as follows:

(1)(a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under this section and must be a project to accomplish one or more of the following tasks:

(i) Elimination of human-made or caused fish passage barriers, including:

(A) Culvert repair and replacement; and

(B) Fish passage barrier removal projects that comply with the forest practices rules, as the term "forest practices rules" is defined in RCW 76.09.020;

(ii) Restoration of an eroded or unstable stream bank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; ((or))

(iii) Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks; or

(iv) Restoration of native kelp and eelgrass beds and restoring native oysters.

(b) The department shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A

project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety.

(c) A fish habitat enhancement project must be approved in one of the following ways in order to receive the permit review and approval process created in this section:

(i) By the department pursuant to chapter 77.95 or 77.100 RCW;

(ii) By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

(iii) By the department as a department-sponsored fish habitat enhancement or restoration project;

(iv) Through the review and approval process for the jobs for the environment program;

(v) Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States fish and wildlife service and the natural resource conservation service;

(vi) Through a formal grant program established by the legislature or the department for fish habitat enhancement or restoration;

(vii) Through the department of transportation's environmental retrofit program as a stand-alone fish passage barrier correction project;

(viii) Through a local, state, or federally approved fish barrier removal grant program designed to assist local governments in implementing stand-alone fish passage barrier corrections;

(ix) By a city or county for a stand-alone fish passage barrier correction project funded by the city or county;

(x) Through the approval process established for forest practices hydraulic projects in chapter 76.09 RCW; or

(xi) Through other formal review and approval processes established by the legislature.

(2) Fish habitat enhancement projects meeting the criteria of subsection (1) of this section are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of subsection (1) of this section and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2)(c).

(3)(a) A permit is required for projects that meet the criteria of subsection (1) of this section and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the department and to each appropriate local government. Applicants for a forest practices hydraulic project that are not otherwise required to submit a joint aquatic resource permit application must submit a copy of their forest practices application to the appropriate local government on the same day that they submit the forest practices application to the department of natural resources.

(b) Local governments shall accept the application identified in this section as notice of the proposed project. A local government shall be provided with a

fifteen-day comment period during which it may transmit comments regarding environmental impacts to the department or, for forest practices hydraulic projects, to the department of natural resources.

(c) Except for forest practices hydraulic projects, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project within forty-five days. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. Permitting decisions over forest practices hydraulic approvals must be made consistent with chapter 76.09 RCW.

(d) If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(e) Any person aggrieved by the approval, denial, conditioning, or modification of a permit other than a forest practices hydraulic project under this section may appeal the decision as provided in RCW 77.55.021(8). Appeals of a forest practices hydraulic project may be made as provided in chapter 76.09 RCW.

(4) No local government may require permits or charge fees for fish habitat enhancement projects that meet the criteria of subsection (1) of this section and that are reviewed and approved according to the provisions of this section.

(5) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish enhancement project permitted by the department or the department of natural resources under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

**Sec. 2.** RCW 90.58.147 and 2003 c 39 s 49 are each amended to read as follows:

(1) A public or private project that is designed to improve fish or wildlife habitat or fish passage shall be exempt from the substantial development permit requirements of this chapter when all of the following apply:

(a) The project has been approved by the department of fish and wildlife;

(b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW; and

(c) The local government has determined that the project is substantially consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

(2) Fish habitat enhancement projects that conform to the provisions of RCW (~~77.55.290~~) 77.55.181 are determined to be consistent with local shoreline master programs.

Passed by the Senate March 7, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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**CHAPTER 151**

[Substitute Senate Bill 5471]

**ELEVATORS AND CONVEYANCES--TEMPORARY LICENSES--SAFETY ADVISORY  
COMMITTEE--REMOVAL BY HOMEOWNERS**

AN ACT Relating to extending the validity of temporary elevator licenses, expanding membership of the elevator safety advisory committee, and allowing homeowners to remove certain conveyances from their residences; and amending RCW 70.87.220, 70.87.250, and 70.87.270.

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

**Sec. 1.** RCW 70.87.220 and 2003 c 143 s 7 are each amended to read as follows:

(1) The department may adopt the rules necessary to establish and administer the elevator safety advisory committee. The purpose of the advisory committee is to advise the department on the adoption of rules that apply to conveyances; methods of enforcing and administering this chapter; and matters of concern to the conveyance industry and to the individual installers, owners, and users of conveyances.

(2) The advisory committee shall consist of not less than seven persons nor more than nine persons. The director of the department or his or her designee with the advice of the chief elevator inspector shall appoint the committee members as follows:

(a) A minimum of one and a maximum of two representatives of licensed elevator contractors;

(b) A minimum of one and a maximum of two representatives of elevator mechanics licensed to perform all types of conveyance work;

(c) A minimum of one and a maximum of two representatives of owner-employed mechanics exempt from licensing requirements under RCW 70.87.270;

(d) One registered architect or professional engineer representative;

(e) A minimum of one and a maximum of two building owners or manager representatives;

(f) A minimum of one and a maximum of two registered general commercial contractor representatives; and

(g) One ad hoc member representing ~~((a))~~ each municipality maintaining jurisdiction of conveyances in accordance with RCW ~~((70.87.210 [70.87.200]))~~ 70.87.200(2).

(3) The committee members shall serve terms of four years.

(4) The committee shall meet on the third Tuesday of February, May, August, and November of each year, and at other times at the discretion of the chief elevator inspector. The committee members shall serve without per diem or travel expenses.

(5) The chief elevator inspector shall be the secretary for the advisory committee.

**Sec. 2.** RCW 70.87.250 and 2009 c 36 s 11 are each amended to read as follows:

(1) Upon approval of an application, the department may issue a license that is biennially renewable. Each license may include a photograph of the licensee. The fee for the license and for any renewal shall be set by the department in rule.

(2) The department may issue temporary elevator mechanic licenses. These temporary elevator mechanic licenses will be issued to those certified as qualified and competent by licensed elevator contractors. The company shall furnish proof of competency as the department may require. Each license may include a photograph of the licensee. Each license must recite that it is valid for a period of ~~((thirty days))~~ one year from the date of issuance and for such particular conveyance or geographical areas as the department may designate, and otherwise entitles the licensee to the rights and privileges of an elevator mechanic license issued in this chapter. A temporary elevator mechanic license may be renewed by the department and a fee as established in rule must be charged for any temporary elevator mechanic license or renewal.

(3) The renewal of all licenses granted under this section is conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of licensees on new and existing rules of the department. The course must consist of not less than eight hours of instruction that must be attended and completed within one year immediately preceding any license renewal.

(4) The courses must be taught by instructors through continuing education providers that may include, but are not limited to, association seminars and labor training programs. The department must approve the continuing education providers. All instructors must be approved by the department and are exempt from the requirements of subsection (3) of this section with regard to his or her application for license renewal, provided that such applicant was qualified as an instructor at any time during the one year immediately preceding the scheduled date for such renewal.

(5) A licensee who is unable to complete the continuing education course required under this section before the expiration of his or her license due to a temporary disability may apply for a waiver from the department. This will be on a form provided by the department and signed under the pains and penalties of perjury and accompanied by a certified statement from a competent physician attesting to the temporary disability. Upon the termination of the temporary disability, the licensee must submit to the department a certified statement from the same physician, if practicable, attesting to the termination of the temporary disability. At which time a waiver sticker, valid for ninety days, must be issued to the licensee and affixed to his or her license.

(6) Approved training providers must keep uniform records, for a period of ten years, of attendance of licensees and these records must be available for inspection by the department at its request. Approved training providers are responsible for the security of all attendance records and certificates of completion. However, falsifying or knowingly allowing another to falsify attendance records or certificates of completion constitutes grounds for suspension or revocation of the approval required under this section.

**Sec. 3.** RCW 70.87.270 and 2003 c 143 s 4 are each amended to read as follows:

(1) The licensing requirements of this chapter do not apply to the maintenance of conveyances specified in (a) of this subsection if a person



specified in (b) of this subsection performs the maintenance and the owner complies with the requirements specified in (c) and (d) of this subsection.

(a) The conveyance: (i) Must be a conveyance other than a passenger elevator to which the general public has access; and (ii) must be located in a facility in which agricultural products are stored, food products are processed, goods are manufactured, energy is generated, or similar industrial or agricultural processes are performed.

(b) The person performing the maintenance: (i) Must be regularly employed by the owner; (ii) must have completed the training described in (c) of this subsection; and (iii) must have attained journey level status in an electrical or mechanical trade, but only if the employer has or uses an established journey level program to train its electrical or mechanical trade employees and the employees perform maintenance in the course of their regular employment.

(c) The owner must provide the persons specified in (b) of this subsection adequate training to ensure worker safety and adherence to the published operating specifications of the conveyance manufacturer, the applicable provisions of this chapter, and any rules adopted under this chapter.

(d) The owner also must maintain both a maintenance log and a training log. The maintenance log must describe maintenance work performed on the conveyance and identify the person who performed the work. The training log must describe the course of study provided to the persons specified in (b) of this subsection, including whether it is general or conveyance specific, and when the persons completed the course of study.

(2) It is a violation of chapter 49.17 RCW for an owner or an employer: (a) To allow a conveyance exempt from the licensing requirements of this chapter under subsection (1) of this section to be maintained by a person other than a person specified in subsection (1)(b) of this section or a licensee; or (b) to fail to maintain the logs required under subsection (1)(d) of this section.

(3) The licensing requirements of this chapter do not apply to homeowners, or persons employed by homeowners, for permanent removal of a stairway chair lift or a platform lift located in a private residence as described in the American Society of Mechanical Engineers A18.1 Safety Standard for Platform Lifts and Stairway Chairlifts, Sections 5, 6, and 7.

Passed by the Senate February 13, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 152

[Senate Bill 5558]

### INTERPRETER SERVICES FOR THE SENSORY IMPAIRED--AUTHORITY TO PURCHASE BY CERTAIN STATE AGENCIES

AN ACT Relating to reinstating the authority of the department of social and health services and the health care authority to purchase interpreter services for applicants and recipients of public assistance who are sensory-impaired; amending RCW 39.26.100; creating a new section; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that recent legislation to alter the procurement of spoken language interpreter services and to allow spoken language interpreters to elect collective bargaining representation also removed the authority of department of social and health services to procure interpreter services on behalf of applicants and recipients of public assistance who are sensory-impaired. The legislature intends to reinstate that authority.

**Sec. 2.** RCW 39.26.100 and 2018 c 253 s 4 are each amended to read as follows:

(1) The provisions of this chapter do not apply in any manner to the operation of the state legislature except as requested by the legislature.

(2) The provisions of this chapter do not apply to the contracting for services, equipment, and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering, installation, and operation of the facility, that are approved by the technology services board or the acquisition of proprietary software, equipment, and information technology services necessary for or part of the provision of services offered by the consolidated technology services agency.

(3) Primary authority for the purchase of specialized equipment, and instructional and research material, for their own use rests with the institutions of higher education as defined in RCW 28B.10.016.

(4) Universities operating hospitals with approval from the director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations if documented to be more cost-effective.

(5) Primary authority for the purchase of materials, supplies, and equipment, for resale to other than public agencies, rests with the state agency concerned.

(6) The authority for the purchase of insurance and bonds rests with the risk manager under RCW 43.19.769, except for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029.

(7) The provisions of this chapter do not apply to information technology purchases by state agencies, other than institutions of higher education and agencies of the judicial branch, if (a) the purchase is less than one hundred thousand dollars, (b) the initial purchase is approved by the chief information officer of the state, and (c) the agency director and the chief information officer of the state jointly prepare a public document providing a detailed justification for the expenditure.

(8) The authority to purchase interpreter services on behalf of applicants and recipients of public assistance who are sensory-impaired rests with the department of social and health services and the health care authority.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 26, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.  
 Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 153

[Substitute Senate Bill 5638]

### DISTRIBUTED LEDGER TECHNOLOGY

AN ACT Relating to recognizing the validity of distributed ledger technology; and adding a new chapter to Title 19 RCW.

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

**NEW SECTION. Sec. 1.** The legislature intends to encourage the development of distributed ledger technology. It further intends for this chapter to comply with 15 U.S.C. Sec. 7002 and here makes specific reference to chapter 96 of Title 15 of the United States Code.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Blockchain" means a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via internet, peer-to-peer network, or other similar interaction.

(2) "Distributed ledger technology" means any distributed ledger protocol and supporting infrastructure, including blockchain, that uses a distributed, decentralized, shared, and replicated ledger.

(3) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

**NEW SECTION. Sec. 3.** An electronic record may not be denied legal effect, validity, or enforceability solely because it is generated, communicated, received, or stored using distributed ledger technology.

**NEW SECTION. Sec. 4.** Sections 1 through 3 of this act constitute a new chapter in Title 19 RCW.

Passed by the Senate March 6, 2019.

Passed by the House April 15, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 154

[Senate Bill 5641]

### ELECTRONIC NOTARIAL ACTS

AN ACT Relating to electronic notarial acts by remotely located individuals; amending RCW 42.45.020, 42.45.040, 42.45.130, 42.45.140, 42.45.900, 9A.60.050, 65.08.030, and 65.08.070; adding a new section to chapter 42.45 RCW; prescribing penalties; and providing an effective date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 42.45 RCW to read as follows:

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

(a) "Communication technology" means an electronic device or process that:

(i) Allows an electronic records notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(ii) When necessary under and consistent with other applicable law, facilitates communication with a remotely located individual with a vision, hearing, or speech impairment.

(b) "Foreign state" means a jurisdiction other than the United States, a state, or a federally recognized Indian tribe.

(c) "Identity proofing" means a process or service by which a third person provides an electronic records notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

(d) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory, insular possession, or other location subject to the jurisdiction of the United States.

(e) "Remotely located individual" means an individual who is not in the physical presence of the electronic records notary public who performs a notarial act under subsection (3) of this section.

(2) A remotely located individual complies with RCW 42.45.040 by using communication technology to appear before an electronic records notary public.

(3) An electronic records notary public located in this state may perform a notarial act using communication technology for a remotely located individual if:

(a) The electronic records notary public:

(i) Has personal knowledge under RCW 42.45.050(1) of the identity of the remotely located individual;

(ii) Has satisfactory evidence of the identity of the remotely located individual by a verification on oath or affirmation of a credible witness appearing before and identified by the electronic records notary public under RCW 42.45.050(2); or

(iii) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(b) The electronic records notary public is reasonably able to confirm that a record before the electronic records notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(c) The electronic records notary public, or a person acting on behalf of the electronic records notary public, creates an audio-visual recording of the performance of the notarial act; and

(d) For a remotely located individual located outside the United States:

(i) The record:

(A) Is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(B) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(ii) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(4) If a notarial act is performed under this section, the certificate of notarial act required by RCW 42.45.130 and the short-form certificate provided in RCW 42.45.140 must indicate that the notarial act was performed using communication technology.

(5) A short-form certificate provided in RCW 42.45.140 for a notarial act subject to this section is sufficient if it:

(a) Complies with rules adopted under subsection (8)(a) of this section; or

(b) Is in the form provided by RCW 42.45.140 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

(6) An electronic records notary public, a guardian, conservator, or agent of an electronic records notary public, or a personal representative of a deceased electronic records notary public shall retain the audio-visual recording created under subsection (3)(c) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection (8)(d) of this section, the recording must be retained for a period of at least ten years after the recording is made.

(7) Before an electronic records notary public performs the electronic records notary public's initial notarial act under this section, the electronic records notary public must notify the director that the electronic records notary public will be performing notarial acts and identify the technologies the electronic records notary public intends to use. If the director has established standards under subsection (8) of this section and RCW 42.45.250 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards.

(8) In addition to adopting rules under RCW 42.45.250, the director may adopt rules under this section regarding performance of a notarial act. The rules may:

(a) Prescribe the means of performing a notarial act involving a remotely located individual using communication technology;

(b) Establish standards for communication technology and identity proofing;

(c) Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and

(d) Establish standards and a period for the retention of an audio-visual recording created under subsection (3)(c) of this section.

(9) Before adopting, amending, or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the director must consider:

(a) The most recent standards regarding the performance of a notarial act with respect to a remotely located individual adopted by national standard-setting organizations and the recommendations of the national association of secretaries of state;

(b) Standards, practices, and customs of other jurisdictions that have laws substantially similar to this section; and

(c) The views of governmental officials and entities and other interested persons.

**Sec. 2.** RCW 42.45.020 and 2017 c 281 s 4 are each amended to read as follows:

(1) A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.

(2)(a) A notarial officer may not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party, or in which any of the above have a direct beneficial interest.

(b) A notarial officer may not notarize the notarial officer's own signature.

(c) A notarial act performed in violation of this subsection (2) is voidable.

(3) A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

**Sec. 3.** RCW 42.45.040 and 2017 c 281 s 6 are each amended to read as follows:

Except as provided in section 1 of this act, if a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

**Sec. 4.** RCW 42.45.130 and 2017 c 281 s 15 are each amended to read as follows:

(1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the department;

(c) Identify the jurisdiction in which the notarial act is performed;

(d) Contain the title of office of the notarial officer;

(e) Be written in English or in dual languages, one of which must be English; (~~and~~)

(f) If the notarial officer is a notary public, indicate the date of expiration, if any, of the officer's commission; and

(g) If the notarial act is performed under section 1 of this act, indicate that the notarial act was performed using communication technology.

(2) Regarding notarial act certificates on a tangible record:

(a) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate.

(b) If a notarial act regarding a tangible record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be affixed to or embossed on the certificate.

(3) Regarding notarial act certificates on an electronic record:

(a) If a notarial act regarding an electronic record is performed by an electronic records notary public, an official stamp must be attached to or logically associated with the certificate.

(b) If a notarial act regarding an electronic record is performed by a notarial officer other than a notary public and the certificate contains the information specified in subsection (1)(b), (c), and (d) of this section, an official stamp may be attached to or logically associated with the certificate.

(4) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) through (3) of this section and:

(a) Is in a short form set forth in RCW 42.45.140;

(b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in RCW 42.45.030, 42.45.040, and 42.45.050 or law of this state other than this chapter.

(5) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in RCW 42.45.030, 42.45.040, and 42.45.050.

(6) A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(7) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the director has established standards pursuant to RCW 42.45.250 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

**Sec. 5.** RCW 42.45.140 and 2017 c 281 s 16 are each amended to read as follows:

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by RCW 42.45.130 (1) through (4) and section 1 of this act:

(1) For an acknowledgment in an individual capacity:

State of .....

County of .....

This record was acknowledged before me on (date) by (name(s) of individuals).

.....  
(Signature of notary public)

(Stamp)

.....  
(Title of office)

My commission expires:  
.....  
(date)

(2) For an acknowledgment in a representative capacity:

State of .....

County of .....

This record was acknowledged before me on (date) by (name(s) of individuals) as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

.....  
(Signature of notary public)

(Stamp)

.....  
(Title of office)  
My commission expires:  
.....  
(date)

(3) For verification on oath or affirmation:

State of .....

County of .....

Signed and sworn to (or affirmed) before me on (date) by (name(s) of individuals making statement).

.....  
(Signature of notary public)

(Stamp)

.....  
(Title of office)  
My commission expires:  
.....  
(date)

(4) For witnessing or attesting a signature:

State of .....

County of .....

Signed or attested before me on (date) by (name(s) of individuals).

.....  
(Signature of notary public)

(Stamp)

.....  
(Title of office)  
My commission expires:  
.....



(date)

(5) For certifying or attesting a copy of a record:

State of .....

County of .....

I certify that this is a true and correct copy of a record in the possession of .....

Dated: .....

.....  
(Signature of notary public)

(Stamp)

.....  
(Title of office)

My commission expires:  
.....

(date)

(6) For certifying the occurrence of an event or the performance of any act:

State of .....

County of .....

I certify that the event described in this document has occurred or been performed.

Dated: .....

.....  
(Signature of notary public)

(Stamp)

.....  
(Title of office)

My commission expires:  
.....

(date)

**Sec. 6.** RCW 42.45.900 and 2017 c 281 s 1 are each amended to read as follows:

This chapter may be known and cited as the 2018 revised uniform law on notarial acts.

**Sec. 7.** RCW 9A.60.050 and 2011 c 336 s 384 are each amended to read as follows:

(1) A person is guilty of false certification, if, being an officer authorized to take a proof or acknowledgment of an instrument which by law may be recorded, he or she knowingly certifies falsely that the execution of such

instrument was acknowledged by any party thereto or that the execution thereof was proved.

(2) A person is guilty of false certification, if, being a notarial officer making a certification authorized by RCW 42.45.020(3), he or she knowingly certifies falsely that a tangible copy of an electronic record is an accurate copy of the electronic record.

(3) False certification is a gross misdemeanor.

**Sec. 8.** RCW 65.08.030 and 1953 c 115 s 1 are each amended to read as follows:

(1) An instrument in writing purporting to convey or encumber real estate or any interest therein, which has been recorded in the auditor's office of the county in which the real estate is situated, although the instrument may not have been executed and acknowledged in accordance with the law in force at the time of its execution, shall impart the same notice to third persons, from the date of recording, as if the instrument had been executed, acknowledged, and recorded, in accordance with the laws regulating the execution, acknowledgment, and recording of the instrument then in force.

(2) A tangible copy of an electronic record purporting to convey or encumber real estate or any interest therein, which has been recorded in the auditor's office of the county in which the real estate is situated, although the tangible copy may not have been certified by a notarial officer in accordance with RCW 42.45.020(3), imparts the same notice to third persons, from the date of recording, as if the tangible copy had been so certified.

**Sec. 9.** RCW 65.08.070 and 2012 c 117 s 208 are each amended to read as follows:

(1) A conveyance of real property, when acknowledged by the person executing the same (the acknowledgment being certified as required by law), may be recorded in the office of the recording officer of the county where the property is situated. Every such conveyance not so recorded is void as against any subsequent purchaser or mortgagee in good faith and for a valuable consideration from the same vendor, his or her heirs or devisees, of the same real property or any portion thereof whose conveyance is first duly recorded. An instrument is deemed recorded the minute it is filed for record.

(2) A recording officer as defined in RCW 65.08.060(4) may accept for recording under this section a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record under RCW 42.45.020(3).

NEW SECTION. **Sec. 10.** This act takes effect October 1, 2020.

Passed by the Senate February 13, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 155

[Senate Bill 5795]

## CONSTRUCTION CONTRACTORS--BONDING--WORK GROUP

AN ACT Relating to construction contractors but only with respect to providing financial recourse to harmed consumers not to include a warranty and creating a work group; and amending RCW 18.27.040.

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

**Sec. 1.** RCW 18.27.040 and 2007 c 436 s 4 are each amended to read as follows:

(1) Each applicant shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of twelve thousand dollars if the applicant is a general contractor and six thousand dollars if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the registration issued to the contractor until a new bond or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial registration or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall issue or renew the contractor's certificate of registration. Any contractor registered as of July 1, 2001, who maintains that registration in accordance with this chapter is in compliance with this chapter until the next renewal of the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit against the contractor and the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed contract work was substantially completed or abandoned, whichever occurred first. Action upon the bond or deposit brought by any other authorized party shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within

one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was substantially completed or abandoned, whichever occurred first. Service of process in an action filed under this chapter against the contractor and the contractor's bond or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than fifty dollars to cover the costs shall be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies of the summons and complaint. The service shall constitute service and confer personal jurisdiction on the contractor and the surety for suit on claimant's claim against the contractor and the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the contractor at the address listed in the contractor's application and to the surety within two days after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending and provided to the department as required in subsection (3) of this section, at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (a) Employee labor and claims of laborers, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Registered or licensed subcontractors, material, and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorneys' fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) The total amount paid from a bond or deposit required of a general contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount. The total amount paid from a bond or deposit required of a specialty contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount or four thousand dollars, whichever is greater.

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to the construction contract involving a residential homeowner, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond or deposit is not liable in an aggregate amount in excess of the amount named in the bond or

deposit nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond or deposit so furnished that there is not in effect a bond or deposit in the full amount prescribed in this section, the registration of the contractor is automatically suspended until the bond or deposit liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department an assigned savings account, upon forms provided by the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(10) Within ten days after resolution of the case, a certified copy of the final judgment and order, or any settlement documents where a case is not disposed of by a court trial, a certified copy of the dispositive settlement documents must be provided to the department by the prevailing party. Failure to provide a copy of the final judgment and order or the dispositive settlement documents to the department within ten days of entry of such an order constitutes a violation of this chapter and a penalty adopted by rule of not less than two hundred fifty dollars may be assessed against the prevailing party.

(11) The director may require an applicant applying to renew or reinstate a registration or applying for a new registration to file a bond of up to three times the normally required amount, if the director determines that an applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years (~~((a total of three))~~ one final judgment~~((s))~~ in actions under this chapter involving a residential single-family dwelling (~~((on two or more different structures))~~).

(12) The director may adopt rules necessary for the proper administration of the security.

(13)(a) The department must convene a work group no later than August 1, 2019, to consider additional safeguards for consumers who engage contractors. The department must provide staff support for the work group and include in the work group: Department staff; large and small contractors that primarily contract with residential homeowners, those that build new and rehabilitate residences, and other interested contractors; surety bond companies; realtors or their representatives; workers and/or their representatives; representatives from the consumer protection division of the office of the attorney general; consumers and/or advocates representing them; and local building officials.

The work group shall submit a report with recommendations to the department and, if applicable, the appropriate committees of the legislature by June 30, 2020. The report must address whether:

(i) Bond amounts are sufficient and appropriate to protect consumers, workers, and suppliers and meet tax obligations;

(ii) Additional criteria for contractors would provide a greater level of protection;

(iii) Strategies to discourage the transfer of a business to a different entity for the purpose of evading penalties or judgments under this chapter should be implemented;

(iv) Any other registration requirements or options for consumer recovery under this chapter should be changed to increase protections for consumers; and

(v) Incentives to adopt industry best practices would increase consumer protections.

(b) The work group must dissolve once the report is submitted.

Passed by the Senate March 4, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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**CHAPTER 156**

[Senate Bill 5909]

SERVICES BY LIQUOR MANUFACTURERS

AN ACT Relating to the license to manufacture, import, sell, and export liquor; and amending RCW 66.24.150.

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

**Sec. 1.** RCW 66.24.150 and 1997 c 321 s 2 are each amended to read as follows:

(1) There shall be a license to manufacturers of liquor, including all kinds of manufacturers except those licensed as distillers, domestic brewers, microbreweries, wineries, and domestic wineries, authorizing such licensees to manufacture, import, sell, and export liquor from the state; fee five hundred dollars per annum.

(2) Manufacturers licensed under this section may contract with licensed liquor distillers, craft distillers, domestic brewers, microbreweries, wineries, and domestic wineries to provide packaging services that include, but are not limited to:

(a) Canning, bottling, and bagging of alcoholic beverages;

(b) Mixing products before packaging; and

(c) Receiving and returning products to the originating liquor licensed businesses as part of a contract.

(3) Holders of a manufacturer's license:

(a) May contract with other nonliquor licensed businesses if the contract does not include alcohol products;

(b) May not contract directly or indirectly with any retail liquor licensee for the sale of alcohol products, unless they are medicinal, culinary, or toilet preparations not usable as beverages, as described in RCW 66.12.070;

(c) May not engage in direct liquor sales to retail liquor licensees, except for the sale of alcohol products described in RCW 66.12.070; and

(d) May not mix or infuse THC, CBD, or any other cannabinoid into any products containing alcohol.

Passed by the Senate February 26, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 157

[Senate Bill 5923]

### COUNTY ROAD ADMINISTRATION BOARD EMERGENCY LOAN ACCOUNT

AN ACT Relating to establishing an emergency loan program to be administered by the county road administration board; amending RCW 36.78.070; reenacting and amending RCW 43.79A.040; adding new sections to chapter 36.78 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds there is a need for a county road emergency fund to pay for unexpected costs that arise from natural or man-made events that damage county road infrastructure so it is no longer functional. The legislature intends to provide access to a revolving loan emergency account to ensure that smaller counties have options to pay for repairs to restore transportation services in a timely manner.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.78 RCW to read as follows:

(1) The board may create an emergency revolving loan program that is self-supporting in accordance with RCW 43.88.190. The board may award emergency loans to counties with a population of less than eight hundred thousand as of April 1, 2019, from the funds available in the county road administration board emergency loan account created in section 3 of this act for emergency projects.

(2) Emergency projects are work of either a temporary or permanent nature which restores roads and bridges to a preemergency condition and may include reconstruction to current design standards. This work is the result of a sudden natural or man-made event which results in the destruction or severe damage to county roadway sections or structures such that, in the consideration of public safety and use, the roadway sections or structures must be immediately closed or substantially restricted to normal use. Work of an emergency nature is also beyond the scope of work done by a county in repairing damages normally or reasonably expected from seasonal or other natural conditions, and is beyond what would be considered maintenance.

(3) In order to obtain a loan under this section, there must be a county, state, or federal emergency proclamation declaring an emergency related to the event that caused the damage the emergency project intends to correct, and the county must agree to repay the loan with interest of not more than three percent. All repayment amounts must be deposited into the county road administration board emergency loan account.

(4) Any work performed on an emergency project funded in accordance with this section by county forces shall be exempt from the limits of RCW 36.77.065.

(5) Consistent with RCW 43.01.036, the board must submit a report to the legislature by December 1st of each even-numbered year identifying each project that received money from the county road administration board emergency loan account, the amount of the loan, the expected repayment terms of the loan, the expected date of repayment, and the loan repayment status. Each project should be reported about until the loan is repaid.

NEW SECTION. **Sec. 3.** A new section is added to chapter 36.78 RCW to read as follows:

(1) The county road administration board emergency loan account is created in the custody of the state treasurer. The account consists of: (a) All receipts from loan repayments and (b) any other revenues derived from transfers, gifts, grants, or bequests to the board for emergency projects. Expenditures from the account may be used only for emergency loans to certain counties in accordance with section 2 of this act and the related administrative costs. Only the board or its designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The state treasurer may invest and reinvest moneys in the county road administration board emergency loan account in the manner provided by law. All earnings from such investment and reinvestment must be credited to the account.

**Sec. 4.** RCW 43.79A.040 and 2018 c 260 s 28, 2018 c 258 s 4, and 2018 c 127 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Washington advanced college tuition payment program account, the Washington



college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, ~~((the))~~ the public employees' and retirees' insurance account, ~~((the))~~ the school employees' insurance account, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its

proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 5.** RCW 36.78.070 and 2005 c 319 s 102 are each amended to read as follows:

The county road administration board shall:

(1) Establish by rule, standards of good practice for the administration of county roads and the efficient movement of people and goods over county roads;

(2) Establish reporting requirements for counties with respect to the standards of good practice adopted by the board;

(3) Receive and review reports from counties and reports from its executive director to determine compliance with legislative directives and the standards of good practice adopted by the board;

(4) Advise counties on issues relating to county roads and the safe and efficient movement of people and goods over county roads and assist counties in developing uniform and efficient transportation-related information technology resources;

(5) Report annually before the fifteenth day of January, and throughout the year as appropriate, to the state department of transportation and to the chairs of the house and senate transportation committees, and to other entities as appropriate on the status of county road administration in each county, including one copy to the staff of each of the committees. The annual report shall contain recommendations for improving administration of the county road programs;

(6) Administer the rural arterial program established by chapter 36.79 RCW (~~and~~), the program funded by the county arterial preservation account established by RCW 46.68.090, and the emergency revolving loan program created in section 2 of this act, as well as any other programs provided for in law.

Passed by the Senate March 8, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

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## CHAPTER 158

[Engrossed Second Substitute Senate Bill 5276]

### HEMP PRODUCTION

AN ACT Relating to hemp production; amending RCW 69.50.204 and 15.120.020; reenacting and amending RCW 69.50.101; adding a new chapter to Title 15 RCW; repealing RCW 15.120.005, 15.120.010, 15.120.020, 15.120.030, 15.120.035, 15.120.040, 15.120.050, and 15.120.060; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature intends to:

(1) Authorize and establish a new licensing and regulatory program for hemp production in this state in accordance with the agriculture improvement act of 2018;

(2) Replace the industrial hemp research program in chapter 15.120 RCW, with the new licensing and regulatory program established in this chapter, and enable hemp growers licensed under the industrial hemp research program on the effective date of rules implementing this chapter and regulating hemp production, to transfer into the program created in this chapter; and

(3) Authorize the growing of hemp as a legal, agricultural activity in this state. Hemp is an agricultural product that may be legally grown, produced, processed, possessed, transferred, commercially sold, and traded. Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within the state, outside of this state, and internationally. Nothing in this chapter is intended to prevent or restrain commerce in this state involving hemp or hemp products produced lawfully under the laws of another state, tribe, or country.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agriculture improvement act of 2018" means sections 7605, 10113, 10114, and 12619 of the agriculture improvement act of 2018, P.L. 115-334.

(2) "Crop" means hemp grown as an agricultural commodity.

(3) "Cultivar" means a variation of the plant *Cannabis sativa L.* that has been developed through cultivation by selective breeding.

(4) "Department" means the Washington state department of agriculture.

(5) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(6)(a) "Industrial hemp" means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of 0.3 percent or less by dry weight that was grown under the industrial hemp research program as it existed on December 31, 2019.

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of "marijuana" as defined in RCW 69.50.101.

(7) "Postharvest test" means a test of delta-9 tetrahydrocannabinol concentration levels of hemp after being harvested based on:

(a) Ground whole plant samples without heat applied; or

(b) Other approved testing methods.

(8) "Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.

(9) "Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp including hemp seed.

**NEW SECTION. Sec. 3.** (1) The department must develop an agricultural commodity program to replace the industrial hemp research pilot program in chapter 15.120 RCW, in accordance with the agriculture improvement act of 2018.

(2) The department has sole regulatory authority over the production of hemp and may adopt rules to implement this chapter. All rules relating to hemp,

including any testing of hemp, are outside of the control and authority of the liquor and cannabis board.

(3) If the department adopts rules implementing this chapter that are effective by June 1, 2019, persons licensed to grow hemp under chapter 15.120 RCW may transfer into the regulatory program established in this chapter, and continue hemp production under this chapter. If the department adopts rules implementing this chapter that are effective after June 1, 2019, people licensed to grow hemp under chapter 15.120 RCW may continue hemp production under this chapter as of the effective date of the rules.

(4) Immediately upon the effective date of this section, and before the adoption of rules implementing this chapter, persons licensed to grow hemp under chapter 15.120 RCW may produce hemp in a manner otherwise consistent with the provisions of this chapter and the agriculture improvement act of 2018.

**NEW SECTION. Sec. 4.** (1) The department must develop the state's hemp plan to conform to the agriculture improvement act of 2018, to include consultation with the governor and the attorney general and the plan elements required in the agriculture improvement act of 2018.

(2) Consistent with subsection (1) of this section, the state's hemp plan must include the following elements:

(a) A practice for hemp producers to maintain relevant information regarding land on which hemp is produced, including a legal description of the land, for a period of not less than three calendar years;

(b) A procedure for testing, using postdecarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of hemp, without the application of heat;

(c) A procedure for the effective disposal of plants, whether growing or not, that are produced in violation of this chapter, and products derived from such plants;

(d) A procedure for enforcement of violations of the plan and for corrective action plans for licensees as required under the agriculture improvement act of 2018;

(e) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp producers to verify hemp is not produced in violation of this chapter; and

(f) A certification that the state has the resources and personnel to carry out the practices and procedures described in this section.

(3) The proposal for the state's plan may include any other practice or procedure established to the extent the practice or procedure is consistent with the agriculture improvement act of 2018.

(4) Hemp and processed hemp produced in accordance with this chapter or produced lawfully under the laws of another state, tribe, or country may be transferred and sold within this state, outside of this state, and internationally.

(5) The whole hemp plant may be used as food. The department shall regulate the processing of hemp for food products, that are allowable under federal law, in the same manner as other food processing under chapters 15.130 and 69.07 RCW and may adopt rules as necessary to properly regulate the processing of hemp for food products including, but not limited to, establishing standards for creating hemp extracts used for food.

**NEW SECTION. Sec. 5.** The department must develop a postharvest test protocol for testing hemp under this chapter that includes testing of whole plant samples or other testing protocol identified in regulations established by the United States department of agriculture, including the testing procedures for delta-9 tetrahydrocannabinol concentration levels of hemp produced by producers under the state plan.

**NEW SECTION. Sec. 6.** (1) The department must issue hemp producer licenses to applicants qualified under this chapter and the agriculture improvement act of 2018. The department may adopt rules pursuant to this chapter and chapter 34.05 RCW as necessary to license persons to grow hemp under a commercial hemp program.

(2) The plan must identify qualifications for license applicants, to include adults and corporate persons and to exclude persons with felony convictions as required under the agriculture improvement act of 2018.

(3) The department must establish license fees in an amount that will fund the implementation of this chapter and sustain the hemp program. The department may adopt rules establishing fees for tetrahydrocannabinol testing, inspections, and additional services required by the United States department of agriculture. License fees and any money received by the department under this chapter must be deposited in the hemp regulatory account created in section 8 of this act.

**NEW SECTION. Sec. 7.** A person producing hemp pursuant to this chapter must notify the department of the source of the hemp seed or clones solely for the purpose of maintaining a record of the sources of seeds and clones being used or having been used for hemp production in this state. Hemp seed is an agricultural seed.

**NEW SECTION. Sec. 8.** The hemp regulatory account is created in the custody of the state treasurer. All receipts from fees established under this chapter must be deposited into the account. Expenditures from the account may be used only for implementing this chapter. Only the director of the state department of agriculture or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 9.** Washington State University may, within existing resources, develop and make accessible an internet-based application designed to assist hemp producers by providing regional communications concerning recommended planting times for hemp crops in this state.

**NEW SECTION. Sec. 10.** (1) There is no distance requirement, limitation, or buffer zone between any licensed hemp producer or hemp processing facility licensed or authorized under this chapter and any marijuana producer or marijuana processor licensed under chapter 69.50 RCW. No rule may establish such a distance requirement, limitation, or buffer zone without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

(2) Notwithstanding subsection (1) of this section, in an effort to prevent cross-pollination between hemp plants produced under this chapter and marijuana plants produced under chapter 69.50 RCW, the department, in consultation with the liquor and cannabis board, must review the state's policy regarding cross-pollination and pollen capture to ensure an appropriate policy is

in place, and must modify policies or establish new policies as appropriate. Under any such policy, when a documented conflict involving cross-pollination exists between two farms or production facilities growing or producing hemp or marijuana, the farm or production facility operating first in time shall have the right to continue operating and the farm or production facility operating second in time must cease growing or producing hemp or marijuana, as applicable.

**NEW SECTION. Sec. 11.** (1) The department must use expedited rule making to adopt the state hemp plan submitted to the United States department of agriculture. As allowed under this section, rule making by the department to adopt the approved hemp plan qualifies as expedited rule making under RCW 34.05.353. Upon the submittal of the plan to the United States department of agriculture, the department may conduct initial expedited rule making under RCW 34.05.353 to establish rules to allow hemp licenses to be issued without delay.

(2) On the effective date of rules adopted by the department regulating hemp production under chapter 15.--- RCW (the new chapter created in section 17 of this act), a licensed hemp producer under this chapter may immediately produce hemp pursuant to chapter 15.--- RCW (the new chapter created in section 17 of this act) with all the privileges of a hemp producer licensed under chapter 15.--- RCW (the new chapter created in section 17 of this act).

**Sec. 12.** RCW 69.50.101 and 2018 c 132 s 2 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(d) "CBD product" means any product containing or consisting of cannabidiol.

(e) "Commission" means the pharmacy quality assurance commission.

(f) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in ((RCW 15.120.010)) section 2 of this act.

(g)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or

hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(h) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(i) "Department" means the department of health.

(j) "Designated provider" has the meaning provided in RCW 69.51A.010.

(k) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(l) "Dispenser" means a practitioner who dispenses.

(m) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(n) "Distributor" means a person who distributes.

(o) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(p) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(q) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(r) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(s) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(t) "Isomer" means an optical isomer, but in subsection (ff)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(u) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(v) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(w) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(x) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) ~~((Industrial hemp as defined in RCW 15.120.010))~~ Hemp or industrial hemp as defined in section 2 of this act, seeds used for licensed hemp production under chapter 15.--- RCW (the new chapter created in section 17 of this act).



(y) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(z) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(aa) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(bb) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(cc) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(dd) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(ee) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (x) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(ff) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(gg) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term

includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(hh) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(ii) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(jj) "Plant" has the meaning provided in RCW 69.51A.010.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(mm) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(nn) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(oo) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(pp) "Recognition card" has the meaning provided in RCW 69.51A.010.

(qq) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(rr) "Secretary" means the secretary of health or the secretary's designee.

(ss) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(tt) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(uu) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(vv) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

**Sec. 13.** RCW 69.50.204 and 2015 2nd sp.s. c 4 s 1203 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepseptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;
- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
- (43) PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-~~(propanamide)~~ propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts,

isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine, except hydrochloride salt;
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyldesorphine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphine;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

- (10) 3,4-methylenedioxy amphetamine;
  - (11) 3,4-methylenedioxy methamphetamine (MDMA);
  - (12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
  - (13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-hydroxy MDA;
  - (14) 3,4,5-trimethoxy amphetamine;
  - (15) Alpha-methyltryptamine: Other name: AMT;
  - (16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
  - (17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;
  - (18) Dimethyltryptamine: Some trade or other names: DMT;
  - (19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;
  - (20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyrido (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;
  - (21) Lysergic acid diethylamide;
  - (22) Marihuana or marijuana;
  - (23) Mescaline;
  - (24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
  - (25) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));
  - (26) N-ethyl-3-piperidyl benzilate;
  - (27) N-methyl-3-piperidyl benzilate;
  - (28) Psilocybin;
  - (29) Psilocyn;
  - (30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the (~~(genus)~~) genera Cannabis (~~((cannabis plant))~~), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the genera Cannabis, (~~(species;)~~) and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
    - ((+)) (A) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;
    - ((+)) (B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;
    - ((+)) (C) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers;
- or
- ((iv)) (D) That is chemically synthesized and either:

~~((a))~~ (I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or

~~((b))~~ (II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors; (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(ii) Hemp and industrial hemp, as defined in section 2 of this act, are excepted from the categories of controlled substances identified under this section:

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenyl-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP, 1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylamine;

(5) Methcathinone: Some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+)-cis-4-methylaminorex ((+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

**Sec. 14.** RCW 15.120.020 and 2016 sp.s. c 11 s 3 are each amended to read as follows:

Except as otherwise provided in this chapter, industrial hemp is an agricultural product that may be grown, produced, possessed, processed, and exchanged in the state solely and exclusively as part of an industrial hemp research program supervised by the department. ~~((Processing any part of industrial hemp, except seed, as food, extract, oil, cake, concentrate, resin, or other preparation for topical use, oral consumption, or inhalation by humans is prohibited.))~~

**NEW SECTION. Sec. 15.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2020:

(1) RCW 15.120.005 (Intent) and 2016 sp.s. c 11 s 1;

(2) RCW 15.120.010 (Definitions) and 2016 sp.s. c 11 s 2;

(3) RCW 15.120.020 (Industrial hemp—Agricultural product—Exclusively as part of industrial hemp research program) and 2019 c ... s 14 (section 14 of this act) & 2016 sp.s. c 11 s 3;

(4) RCW 15.120.030 (Rule-making authority) and 2016 sp.s. c 11 s 4;

(5) RCW 15.120.035 (Rule-making authority—Monetary penalties, license suspension or forfeiture, other sanctions—Rules to be consistent with section 7606 of federal agricultural act of 2014) and 2017 c 317 s 10;

(6) RCW 15.120.040 (Industrial hemp research program—Established—Licensure—Seed certification program—Permission/waiver from appropriate federal entity) and 2016 sp.s. c 11 s 5;

(7) RCW 15.120.050 (Application form—Fee—Licensure—Renewal—Record of license forwarded to county sheriff—Public disclosure exemption) and 2016 sp.s. c 11 s 6; and

(8) RCW 15.120.060 (Sales and transfers of industrial hemp produced for processing—Department and state liquor and cannabis board to study feasibility and practicality of implementing legislatively authorized regulatory framework) and 2017 c 317 s 9.

**NEW SECTION. Sec. 16.** Beginning on the effective date of this section:

(1) No law or rule related to certified or interstate hemp seeds applies to or may be enforced against a person with a license to produce or process hemp issued under this chapter or chapter 15.120 RCW; and

(2) No department or other state agency rule may establish or enforce a buffer zone or distance requirement between a person with a license or authorization to produce or process hemp under this chapter or chapter 15.120 RCW and a person with a license to produce or process marijuana issued under chapter 69.50 RCW. The department may not adopt rules without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

**NEW SECTION. Sec. 17.** Sections 1 through 11 and 16 of this act constitute a new chapter in Title 15 RCW.



**NEW SECTION. Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 19.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 24, 2019.

Passed by the House April 23, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 159

[Substitute Senate Bill 5163]

### WRONGFUL INJURY OR DEATH--DAMAGES--PLAINTIFFS

AN ACT Relating to actions for wrongful injury or death; amending RCW 4.20.010, 4.20.020, 4.20.046, 4.20.060, and 4.24.010; and creating a new section.

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

**Sec. 1.** RCW 4.20.010 and 2011 c 336 s 89 are each amended to read as follows:

(1) When the death of a person is caused by the wrongful act, neglect, or default of another person, his or her personal representative may maintain an action ~~((for damages))~~ against the person causing the death ~~((; and although))~~ for the economic and noneconomic damages sustained by the beneficiaries listed in RCW 4.20.020 as a result of the decedent's death, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

(2) This section applies regardless of whether or not the death ~~((shall have been))~~ was caused under such circumstances as amount, in law, to a felony.

**Sec. 2.** RCW 4.20.020 and 2011 c 336 s 90 are each amended to read as follows:

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 action may be maintained for the benefit of 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 or her death))~~ siblings of the deceased.

In every such action the ~~((jury))~~ trier of fact may give such damages as, under all circumstances of the case, may to them seem just.

**Sec. 3.** 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 on behalf of the decedent's estate, the personal representative ((shall only be) is only entitled to recover noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by ((@) the deceased on behalf of those beneficiaries enumerated in RCW 4.20.020(= and such)) in such amounts as determined by a trier of fact 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. 4.** 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 death, if such person has a surviving spouse, state registered domestic partner, or child living, including stepchildren, or ~~if 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,))~~ the person has surviving parents(= sisters,)) or ((brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator)) siblings.

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

(3) In addition to recovering the decedent's economic losses under this section, the persons listed in subsection (1) of this section are entitled to recover damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

**Sec. 5.** 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 or legal guardian 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 dependent for support))~~ a parent or legal guardian who has had significant involvement in the life of an adult child, may maintain or join as a party an action as plaintiff for the injury or death of the child. For purposes of this section, "significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the parent-child relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death, including either giving or receiving emotional, psychological, or financial support to or from the child.

(2) In addition to recovering damages for the child's health care expenses, loss of the child's services, loss of the child's financial support, and other economic losses, damages may be also recovered under this section for the loss of love and companionship of the child, loss of the child's emotional support, and for injury to or destruction of the parent-child relationship, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

(3) An action may be maintained by a parent or legal guardian under this section, regardless of whether or not the child has attained the age of majority, only if the child has no spouse, state registered domestic partner, or children.

(4) Each parent is entitled to recover for his or her own loss separately from the other parent 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)).~~

(5) 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.

~~((In such an action, 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.))~~

**NEW SECTION. Sec. 6.** This act is remedial and retroactive and applies to all claims that are not time barred, as well as any claims pending in any court on the effective date of this section.

Passed by the Senate March 5, 2019.

Passed by the House April 15, 2019.

Approved by the Governor April 26, 2019.

Filed in Office of Secretary of State April 29, 2019.

## CHAPTER 160

[Initiative 1000]

## AFFIRMATIVE ACTION

AN ACT Relating to diversity, equity, and inclusion; amending RCW 49.60.400 and 43.43.015; adding a new section to chapter 43.06 RCW; and creating new sections.

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

## PART I

## TITLE AND INTENT

NEW SECTION. **Sec. 1.** This act may be known and cited as the Washington state diversity, equity, and inclusion act.

NEW SECTION. **Sec. 2.** The intent of the people in enacting this act is to guarantee every resident of Washington state equal opportunity and access to public education, public employment, and public contracting without discrimination based on their race, sex, color, ethnicity, national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status. This is accomplished by: Restoring affirmative action into state law without the use of quotas or preferential treatment; defining the meaning of preferential treatment and its exceptions; and establishing a governor's commission on diversity, equity, and inclusion.

## PART II

## PROHIBITION OF DISCRIMINATION AND PREFERENTIAL TREATMENT

**Sec. 3.** RCW 49.60.400 and 2013 c 242 s 7 are each amended to read as follows:

(1) The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, ~~((or))~~ national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status in the operation of public employment, public education, or public contracting.

(2) This section applies only to action taken after December 3, 1998.

(3) This section does not affect any law or governmental action that does not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, ~~((or))~~ national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, or honorably discharged veteran or military status.

(4) This section does not affect any otherwise lawful classification that:

(a) Is based on sex and is necessary for sexual privacy or medical or psychological treatment; or

(b) Is necessary for undercover law enforcement or for film, video, audio, or theatrical casting; or

(c) Provides for separate athletic teams for each sex.

(5) This section does not invalidate any court order or consent decree that is in force as of December 3, 1998.

(6) This section does not prohibit action that must be taken to establish or maintain eligibility for any federal program, if the director of the office of financial management, in consultation with the attorney general and the

governor's commission on diversity, equity, and inclusion, determines that ineligibility ((would)) will result in a material loss of federal funds to the state.

(7) Nothing in this section prohibits schools established under chapter 28A.715 RCW from:

(a) Implementing a policy of Indian preference in employment; or

(b) Prioritizing the admission of tribal members where capacity of the school's programs or facilities is not as large as demand.

(8) Nothing in this section prohibits the state from remedying discrimination against, or underrepresentation of, disadvantaged groups as documented in a valid disparity study or proven in a court of law.

(9) Nothing in this section prohibits the state from implementing affirmative action laws, regulations, policies, or procedures such as participation goals or outreach efforts that do not utilize quotas and that do not constitute preferential treatment as defined in this section.

(10) Nothing in this section prohibits the state from implementing affirmative action laws, regulations, policies, or procedures which are not in violation of a state or federal statute, final regulation, or court order.

11 For the purposes of this section((;));

(a) "State" includes, but is not necessarily limited to, the state itself, any city, county, public college or university, community college, school district, special district, or other political subdivision or governmental instrumentality of or within the state;

(b) "State agency" means the same as defined in RCW 42.56.010;

(c) "Affirmative action" means a policy in which an individual's race, sex, ethnicity, national origin, age, the presence of any sensory, mental, or physical disability, and honorably discharged veteran or military status are factors considered in the selection of qualified women, honorably discharged military veterans, persons in protected age categories, persons with disabilities, and minorities for opportunities in public education, public employment, and public contracting. Affirmative action includes, but shall not be limited to, recruitment, hiring, training, promotion, outreach, setting and achieving goals and timetables, and other measures designed to increase Washington's diversity in public education, public employment, and public contracting; and

(d) "Preferential treatment" means the act of using race, sex, color, ethnicity, national origin, age, sexual orientation, the presence of any sensory, mental, or physical disability, and honorably discharged veteran or military status as the sole qualifying factor to select a lesser qualified candidate over a more qualified candidate for a public education, public employment, or public contracting opportunity.

~~((9))~~ (12) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of Washington antidiscrimination law.

~~((40))~~ (13) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law, the United States Constitution, or the Washington state Constitution, the section shall be implemented to the maximum extent that federal law, the United States Constitution, and the Washington state Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.

**Sec. 4.** RCW 43.43.015 and 1985 c 365 s 4 are each amended to read as follows:

For the purposes of this chapter, "affirmative action" means, in addition to and consistent with the definition in section 3 of this act, a policy or procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, honorably discharged military veterans, and ~~((disabled))~~ veterans with disabilities are provided with increased employment opportunities. It shall not mean any ~~((set))~~ form of quota system.

### PART III

## CREATION OF THE GOVERNOR'S COMMISSION ON DIVERSITY, EQUITY, AND INCLUSION

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.06 RCW to read as follows:

(1) There is created the governor's commission on diversity, equity, and inclusion. The commission is responsible for planning, directing, monitoring, and enforcing each state agency's compliance with this act. The commission may propose and oppose legislation and shall publish an annual report on the progress of all state agencies in achieving diversity, equity, and inclusion in public education, public employment, and public contracting.

(2) The governor's commission on diversity, equity, and inclusion shall be staffed and funded within the governor's biennial budget. The executive commission members shall be appointed by the governor and serve four-year terms:

- (a) Lieutenant governor;
- (b) Attorney general;
- (c) Superintendent of public instruction;
- (d) Commissioner of the department of employment security;
- (e) Secretary of the department of transportation;
- (f) Director of the department of enterprise services;
- (g) Director of the office of minority and women's business enterprises;
- (h) Director of the department of commerce;
- (i) Director of the department of veterans affairs;
- (j) Executive director of the human rights commission;
- (k) Director of the office of financial management;
- (l) Director of the department of labor and industries;
- (m) Executive director of the governor's office of Indian affairs;
- (n) Executive director of the Washington state women's commission;
- (o) Executive director of the commission on African-American affairs;
- (p) Executive director of the commission on Asian Pacific American affairs;
- (q) Executive director of the commission on Hispanic affairs;
- (r) Chair of the governor's committee on disability issues and employment;
- (s) Chair of the council of presidents;
- (t) Chair of the board for community and technical colleges;
- (u) Chair of the workforce training and education coordinating board;
- (v) Executive director of the board of education;
- (w) Chair of the board of Washington STEM;
- (x) Chair, officer, or director of a state agency or nonprofit organization representing the legal immigrant and refugee community;

(y) Chair, officer, or director of a state agency or nonprofit organization representing the lesbian, gay, bisexual, transgender, and queer community;

(z) Any other agencies or community representatives the governor deems necessary to carry out the objectives of the commission.

(3)(a) The commission shall also consist of the following legislatively appointed members:

(i) Two state senators, one from each of the two largest caucuses, appointed by the president of the senate;

(ii) Two members of the state house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives.

(b) Legislative members shall serve two-year terms, from the date of their appointment.

(4) Each commission member shall serve for the term of his or her appointment and until his or her successor is appointed. Any commission member listed in subsection (2) of this section, who serves by virtue of his or her office, shall be immediately replaced by his or her duly elected or appointed successor.

(5) A vacancy on the commission shall be filled within thirty days of the vacancy in the same manner as the original appointment.

#### PART IV MISCELLANEOUS

**NEW SECTION. Sec. 6.** Within three months following the effective date of this section, the office of program research and senate committee services shall prepare a joint memorandum and draft legislation to present to the appropriate committees of the legislature regarding any necessary changes to the Revised Code of Washington to bring nomenclature and processes in line with this act so as to fully effectuate and not interfere in any way with its intent. In preparing the memorandum and draft legislation, the office of program research and senate committee services shall consult with the sponsors of this initiative, the governor's committee on diversity, equity, and inclusion and the state human rights commission.

**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.

**NEW SECTION. Sec. 8.** For constitutional purposes, the subject of this act is "Diversity, Equity, and Inclusion."

Passed by the House April 28, 2019.

Passed by the Senate April 28, 2019.

Filed in Office of Secretary of State April 29, 2019.

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### CHAPTER 161

[Substitute Senate Bill 5063]

ELECTION BALLOTS--PREPAID POSTAGE

AN ACT Relating to prepaid postage for all election ballots; amending RCW 29A.04.420 and 29A.40.091; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature finds that voting by mail has many advantages. However, the legislature also finds that while the cost of ballot return postage may only be a small amount, passing the burden along to Washington's citizens, many of whom no longer need stamps in their everyday lives, is an unnecessary barrier to fully participate in the democratic process. The legislature further finds that in order to continue to increase participation in our democracy, we must lower all barriers to participation in the democratic process. The legislature finds that voting should be free for all citizens.

**Sec. 2.** RCW 29A.04.420 and 2013 c 11 s 11 are each amended to read as follows:

(1) Whenever state officers or measures are voted upon at a state primary or general election held in an odd-numbered year under RCW 29A.04.321, the state of Washington shall assume a prorated share of the costs of that state primary or general election.

(2) The state shall reimburse counties for the cost of return postage, required to be included on return envelopes pursuant to RCW 29A.40.091, for all elections.

(3) Whenever a primary or vacancy election is held to fill a vacancy in the position of United States senator or United States representative under chapter 29A.28 RCW, the state of Washington shall assume a prorated share of the costs of that primary or vacancy election.

~~((3))~~ (4) The county auditor shall apportion the state's share of these expenses when prorating election costs under RCW 29A.04.410 and shall file such expense claims with the secretary of state.

~~((4))~~ (5) The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out this section. Reimbursements for election costs shall be from appropriations specifically provided by law for that purpose.

**Sec. 3.** RCW 29A.40.091 and 2016 c 83 s 3 are each amended to read as follows:

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

(2) The voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter. The ballot materials must provide space for the voter to sign the declaration, indicate the date on which the ballot was voted, and include a telephone number.

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



(4) The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Return envelopes for all election ballots must include prepaid postage. Service and overseas voters must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. A voted ballot and signed declaration returned by fax or email must be received by 8:00 p.m. on the day of the election or primary.

(5) The county auditor's name may not appear on the security envelope, the return envelope, or on any voting instructions or materials included with the ballot if he or she is a candidate for office during the same year.

(6) For purposes of this section, "prepaid postage" means any method of return postage paid by the county or state.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

Passed by the Senate April 18, 2019.

Passed by the House April 12, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 162

[Substitute House Bill 1239]

### HEALTH CARE AUTHORITY QUALITY AND PEER REVIEW--CONFIDENTIALITY

AN ACT Relating to protecting the confidentiality of health care quality and peer review discussions to support effective patient safety; amending RCW 42.30.110; and adding a new section to chapter 70.41 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 70.41 RCW to read as follows:

(1) All meetings, proceedings, and deliberations of the governing body, its staff or agents, concerning the granting, denial, revocation, restriction, or other consideration of the status of the clinical or staff privileges of a physician or other health care provider as defined in RCW 7.70.020, if such other providers at the discretion of the governing body are considered for such privileges, must be confidential and may be conducted in executive session; however, the final action of the governing body as to the denial, revocation, or restriction of clinical or staff privileges of a physician or other health care provider as defined in RCW 7.70.020 must be done in public session.

(2) All meetings, proceedings, and deliberations of a quality improvement committee established under RCW 4.24.250, 43.70.510, or 70.41.200 and all meetings, proceedings, and deliberations of the governing body, its staff or agents, to review the report or the activities of a quality improvement committee established under RCW 4.24.250, 43.70.510, or 70.41.200 may, at the discretion of the quality improvement committee or the governing body, be confidential and may be conducted in executive session. Any review conducted by the governing body or quality improvement committee, or their staff or agents, must

be subject to the same protections, limitations, and exemptions that apply to quality improvement committee activities under RCW 4.24.240, 4.24.250, 43.70.510, and 70.41.200. However, any final action of the governing body on the report of the quality improvement committee must be done in public session.

(3) For the purposes of this section:

(a) "Governing body" means the board or committee of a public hospital with authority to make final decisions concerning the granting, denial, revocation, restriction, or other consideration of the clinical or staff privileges of a physician or other health care provider, as defined in RCW 7.70.020; and

(b) "Public hospital" means any hospital owned or operated by the state or any of its subdivisions, including the University of Washington.

**Sec. 2.** RCW 42.30.110 and 2017 c 137 s 1 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a)(i) To consider matters affecting national security;

(ii) To consider, if in compliance with any required data security breach disclosure under RCW 19.255.010 and 42.56.590, and with legal counsel available, information regarding the infrastructure and security of computer and telecommunications networks, security and service recovery plans, security risk assessments and security test results to the extent that they identify specific system vulnerabilities, and other information that if made public may increase the risk to the confidentiality, integrity, or availability of agency security or to information technology infrastructure or assets;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees,

or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider information regarding staff privileges or quality improvement committees under section 1 of this act.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public

from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

Passed by the House March 8, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

**CHAPTER 163**

[Substitute House Bill 1284]

**TREASURER'S OFFICE--SEPARATELY MANAGED ACCOUNTS**

AN ACT Relating to creating the capacity for the state treasurer's office to provide separately managed investment portfolios to eligible governmental entities; amending RCW 43.250.020 and 43.250.030; and adding new sections to chapter 43.250 RCW.

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

**Sec. 1.** RCW 43.250.020 and 2016 c 152 s 19 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Authorized tribal official" means any officer or employee of a qualifying federally recognized tribe who has been expressly designated by tribal constitution, ordinance, or resolution as the officer having the authority to invest the funds of the qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(2) "Eligible governmental entity" means any county, city, town, municipal corporation, quasi-municipal corporation, public corporation, political subdivision, or special purpose taxing district in the state, an instrumentality of any of the foregoing governmental entities created under chapter 39.34 RCW, any agency of state government, any entity issuing or executing and delivering bonds or certificates of participation with respect to financing contracts approved by the state finance committee under RCW 39.94.040, and any qualifying federally recognized tribe or federally recognized political subdivisions thereof.

(3) "Financial officer" means the board-appointed treasurer of a community or technical college district, the state board for community and technical colleges, or a public four-year institution of higher education.

(4) "Funds" means:

(a) Funds of an eligible governmental entity under the control of or in the custody of any government finance official or local funds, as defined by the office of financial management publication "Policies, Regulations and Procedures," under the control of or in the custody of a financial officer by virtue of the official's authority that are not immediately required to meet current demands; and

(b) Tribal funds under the control of or in the custody of any qualifying federally recognized tribe or federally recognized political subdivisions thereof, where the tribe warrants that the use or disposition of the funds are either not

subject to, or are used and deposited with federal approval, and where the tribe warrants that the funds are not immediately required to meet current demands.

(5) "Government finance official" means any officer or employee of an eligible governmental entity who has been designated by statute or by local charter, ordinance, resolution, or other appropriate official action, as the officer having the authority to invest the funds of the eligible governmental entity. However, the county treasurer shall be deemed the only government finance official for all public agencies for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(6) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (4) of this section that are placed in the custody of the state treasurer for pooled investment and reinvestment.

(7) "Qualifying federally recognized tribe or federally recognized political subdivisions thereof" means any federally recognized tribe, located in the state of Washington, authorized and empowered by its constitution or ordinance to invest its surplus funds pursuant to this section, and whose authorized tribal official has executed a deposit agreement with the office of the treasurer.

(8) "Separately managed accounts" means both the separately managed public funds investment account and the separately managed state agency investment account.

(9) "Separately managed public funds investment account" means the aggregate of all funds defined in subsection (4) of this section, except those that are remitted by state agencies, that are placed in the custody of the state treasurer for investment and reinvestment in separate portfolios.

(10) "Separately managed state agency investment account" means the aggregate of all funds defined in subsection (4) of this section that are remitted by state agencies and that are placed in the custody of the state treasurer for investment and reinvestment in separate portfolios.

**Sec. 2.** RCW 43.250.030 and 1991 sp.s. c 13 s 86 are each amended to read as follows:

There is created a trust fund to be known as the public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted for pooled investment under this chapter shall be deposited in this account. All earnings on any balances in the public funds investment account, less moneys for administration pursuant to RCW 43.250.060, shall be credited to the public funds investment account.

**NEW SECTION. Sec. 3.** If the office of the state treasurer enters into an agreement with an eligible governmental entity for a separately managed account, the agreement must provide for service charges at rates to allow for operation of the program at no cost to the state and for accumulation of reserves the state treasurer deems necessary for the prudent management of the separately managed account. The agreement must at minimum include the payment for services, time periods for investments, and provisions for orderly withdrawal of funds. The state treasurer may promulgate such rules as are deemed necessary for the efficient operation of the separately managed account.

**NEW SECTION. Sec. 4.** There is created a trust fund to be known as the separately managed public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted

for investment in separate portfolios under this chapter, except those remitted by state agencies, shall be deposited in this account. All earnings on any balances in the separately managed public funds investment account, less amounts charged by the office of the state treasurer, shall be credited to the separately managed public funds investment account.

**NEW SECTION. Sec. 5.** There is created a trust fund to be known as the separately managed state agency investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted by state agencies for investment in separate portfolios under this chapter shall be deposited in this account. All earnings on any balances in the separately managed state agency investment account, less amounts charged by the office of the state treasurer, shall be credited to the separately managed state agency investment account.

**NEW SECTION. Sec. 6.** A separately managed state treasurer's service account is created in the custody of the state treasurer. The account is not subject to appropriation or allotment procedures. All moneys received from separately managed accounts for payment to the office of the state treasurer must be deposited into the separately managed state treasurer's service account. Expenditures from the separately managed state treasurer's service account may be made solely for the operation of the separately managed accounts investment program. Only the treasurer or the treasurer's designee may authorize expenditures from the separately managed state treasurer's service account.

**NEW SECTION. Sec. 7.** Funds placed in separately managed accounts pursuant to agreements between the office of the state treasurer and eligible governmental entities shall be invested and reinvested by the state treasurer so as to effectively maximize the yield to the separately managed account portfolios. In investing and reinvesting moneys in the separately managed accounts and in acquiring, retaining, managing, and disposing of investments of the separately managed accounts, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital. The state treasurer shall also consider the public policies of Washington and the values of its citizens when making investment-related decisions.

**NEW SECTION. Sec. 8.** The state treasurer's office is authorized to employ such personnel as are necessary to administer the separately managed accounts. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the separately managed accounts.

**NEW SECTION. Sec. 9.** Sections 3 through 8 of this act are each added to chapter 43.250 RCW.

Passed by the House March 5, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 164

[Substitute House Bill 1430]

## LICENSING AND ENFORCEMENT SYSTEM MODERNIZATION PROJECT ACCOUNT

AN ACT Relating to the licensing and enforcement system modernization project account; amending RCW 66.08.260; providing an effective date; providing an expiration date; and declaring an emergency.

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

**Sec. 1.** RCW 66.08.260 and 2015 3rd sp.s. c 26 s 3 are each amended to read as follows:

(1) The licensing and enforcement system modernization project account is created in the custody of the state treasurer. All receipts from RCW 66.08.2601 and 66.08.2602 must be deposited into the account. Expenditures from the account may be only used for the expenses of replacing and modernizing the board's licensing, enforcement, and imaging system. The expenditures may be expended for automation of licenses and permits, electronic payments, data warehousing, project management and system testing, consulting, contracting, and staff time, and any necessary data conversion, software, hardware, and related equipment costs. Before making expenditures from the account, the board must conduct a thorough business process examination to ensure the new system provides efficient and effective service delivery. As part of the examination, the board must evaluate and articulate how any new system procurement serves the current and future needs of the internal and external stakeholders, the customers, and the public. Only the director of the board or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires (~~June 30, 2019~~) September 1, 2023.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2019.

Passed by the House March 7, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 165

[House Bill 1486]

## LABOR AND INDUSTRIES--DELEGATION TO QUALIFIED INSPECTION AGENCIES

AN ACT Relating to delegation of inspection duties for factory built housing and commercial structures; and amending RCW 43.22.470 and 43.22.450.

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

**Sec. 1.** RCW 43.22.470 and 1970 ex.s. c 44 s 5 are each amended to read as follows:

The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency or a qualified inspection agency.

Qualified inspection agencies shall be objective, competent, and independent from the companies responsible for the work being inspected. The qualified inspection agency will disclose to the department any conflict of interest so that objectivity may be confirmed. Qualified inspection agencies shall have adequate equipment to perform the required inspections and shall employ experienced personnel with appropriate certifications and knowledge for the inspections being performed. Certification by the international code council will be recognized as meeting this last requirement.

**Sec. 2.** RCW 43.22.450 and 2001 c 335 s 8 are each amended to read as follows:

Whenever used in RCW 43.22.450 through 43.22.490:

(1) "Department" means the Washington state department of labor and industries;

(2) "Approved" means approved by the department;

(3) "Factory built housing" means any structure designed primarily for human occupancy other than a manufactured or mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;

(4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;

(5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;

(6) "Local enforcement agency" means any agency of the governing body of any city ~~((or))~~, county, or state which enforces laws or ordinances governing the construction of buildings;

(7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes;

(8) "Qualified inspection agency" means a nongovernmental entity approved to perform inspections under contract for the department.

Passed by the House February 7, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 166

[Engrossed Second Substitute House Bill 1543]

### RECYCLING

AN ACT Relating to sustainable recycling; amending RCW 70.93.180, 70.95.090, 70.95.100, and 70.95.130; adding a new chapter to Title 70 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Recycling reduces greenhouse gas emissions, conserves energy and landfill space, provides jobs and valuable feedstock materials to industry, promotes health, and protects the environment;



(b) Washington has long been a leader in sound management of recyclable materials and solid waste;

(c) Waste import restrictions worldwide are having huge implications for state and local recycling programs and operations in Washington state, requiring immediate action by the legislature;

(d) In order to maintain our leadership in recycling and create regional domestic markets, Washington must be innovative and implement best practices for recycling and waste reduction;

(e) Washington's environment and economy will benefit from expanding the number of industries that process recycled materials and use recycled feedstocks in their manufacturing;

(f) Washington recognizes the value of manufacturing incentives to encourage recycling industries to locate and operate in Washington and provide manufacturer incentives to improve the recyclability of their products;

(g) Many local governments and private entities cumulatively affect, and are affected by, the market for recycled commodities but have limited jurisdiction and cannot adequately address the problems of market development that are complex, wide-ranging, and regional in nature;

(h) A sustainable recycling system is one that is economically sustainable, in addition to environmentally sustainable;

(i) The private sector has the greatest capacity for creating and expanding markets for recycled commodities and the development of private markets for recycled commodities is in the public interest; and

(j) Washington must create a center to facilitate business assistance, provide basic and applied research and development, as well as policy analysis, to further the development of domestic processing and markets for recycled commodities.

(2) Therefore, it is the policy of the state to create the recycling development center to research, incentivize, and develop new markets and expand existing markets for recycled commodities and recycling facilities.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Center" means recycling development center.

(2) "Department" means the department of ecology.

(3) "Director" means the director of the department of ecology.

(4) "Local government" means a city, town, or county.

(5) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

(6) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.

(7) "Secondary materials" means any materials that are not the primary products from manufacturing and other industrial sectors. These materials may include scrap and residuals from production processes and products that have been recovered at the end of their useful life.

(8) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes,

industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

NEW SECTION. **Sec. 3.** (1) The recycling development center is created within the department of ecology.

(2) The purpose of the center is to provide or facilitate basic and applied research and development, marketing, and policy analysis in furthering the development of markets and processing for recycled commodities and products. As used in this chapter, market development consists of public and private activities that are used to overcome impediments preventing full and productive use of secondary materials diverted from the waste stream, and that encourage and expand use of those materials and subsequent products. In fulfilling this mission, the center must initially direct its services to businesses that transform or remanufacture waste materials into usable or marketable materials or products for use rather than disposal.

(3) The center must perform the following activities:

(a) Develop an annual work plan. The work plan must describe actions and recommendations for developing markets for commodities comprising a significant percentage of the waste stream and having potential for use as an industrial or commercial feedstock, with initial focus on mixed waste paper and plastics;

(b) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials. Such recommendations must include explicit consideration of the costs and benefits of the market-affecting policies, including estimates of the anticipated: Rate impacts on solid waste utility ratepayers; impacts on the prices of consumer goods affected by the recommended policies; and impacts on rates of recycling or utilization of postconsumer materials;

(c) Work with manufacturers and producers of packaging and other potentially recyclable materials on their work to increase the ability of their products to be recycled or reduced in Washington;

(d) Initiate, conduct, or contract for studies relating to market development for recyclable materials, including but not limited to applied research, technology transfer, life-cycle analysis, and pilot demonstration projects;

(e) Obtain and disseminate information relating to market development for recyclable materials from other state and local agencies and other sources;

(f) Contract with individuals, corporations, trade associations, and research institutions for the purposes of this chapter;

(g) Provide grants or contracts to local governments, state agencies, or other public institutions to further the development or revitalization of recycling markets in accordance with applicable rules and regulations;

(h) Provide business and marketing assistance to public and private sector entities within the state;

(i) Represent the state in regional and national market development issues and work to create a regional recycling development council that will work across either state or provincial borders, or both;

(j) Wherever necessary, the center must work with: Material recovery facility operators; public and private sector recycling and solid waste industries; packaging manufacturers and retailers; local governments; environmental

organizations; interested colleges and universities; and state agencies, including the department of commerce and the utilities and transportation commission; and

(k) Report to the legislature and the governor each even-numbered year on the progress of achieving the center's purpose and performing the center's activities, including any effects on state recycling rates or rates of utilization of postconsumer materials in manufactured products that can reasonably be attributed, at least in part, to the activities of the center.

(4) In order to carry out its responsibilities under this chapter, the department must enter into an interagency agreement with the department of commerce to perform or contract for the following activities:

(a) Provide targeted business assistance to recycling businesses, including:

(i) Development of business plans;

(ii) Market research and planning information;

(iii) Referral and information on market conditions; and

(iv) Information on new technology and product development;

(b) Conduct outreach to negotiate voluntary agreements with manufacturers to increase the use of recycled materials in products and product development;

(c) Support, promote, and identify research and development to stimulate new technologies and products using recycled materials;

(d) Actively promote manufacturing with recycled commodities, as well as purchasing of recycled products by state agencies consistent with and in addition to the requirements of chapter 43.19A RCW and RCW 39.26.255, local governments, and the private sector;

(e) Undertake studies on the unmet capital and other needs of reprocessing and manufacturing firms using recycled materials, such as financing and incentive programs; and

(f) Conduct research to understand the waste stream supply chain and incentive strategies for retention, expansion, and attraction of innovative recycling technology businesses.

(5) The department may adopt any rules necessary to implement and enforce this chapter including, but not limited to, measures for the center's performance.

**NEW SECTION. Sec. 4.** (1) The center's activities must be guided by an advisory board.

(2) The duties of the advisory board are to:

(a) Provide advice and guidance on the annual work plan of the center; and

(b) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials to the director and the department of commerce.

(3) Except as otherwise provided, advisory board members must be appointed by the director in consultation with the department of commerce as follows:

(a) One member to represent cities;

(b) One member appointed by the Washington association of county solid waste managers to represent counties east of the crest of the Cascade mountains;

(c) One member appointed by the Washington association of county solid waste managers to represent counties west of the crest of the Cascade mountains;

(d) One member to represent public interest groups;

(e) Three members from universities or state and federal research institutions;

(f) Up to seven private sector members to represent all aspects of the recycling materials system, including but not limited to manufacturing and packaging, solid waste management, and at least one not-for-profit organization familiar with innovative recycling solutions that are being used internationally in Scandinavia, China, and other countries;

(g) The chair of the utilities and transportation commission or the chair's designee as a nonvoting member; and

(h) Nonvoting, temporary appointments to the board may be made by the chair of the advisory board where specific expertise is needed.

(4) The initial appointments of the seven private sector members are as follows: Three members with three-year terms and four members with two-year terms. Thereafter, members serve two-year renewable terms.

(5) The advisory board must meet at least quarterly.

(6) The chair of the advisory board must be elected from among the members by a simple majority vote.

(7) The advisory board may adopt bylaws and a charter for the operation of its business for the purposes of this chapter.

(8) The department shall provide staff support to the advisory board.

**Sec. 5.** RCW 70.93.180 and 2015 c 15 s 3 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) ~~((Fifty))~~ Forty percent to the department of ecology, primarily for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for ~~((use in))~~ litter collection programs ~~((, to be distributed))~~ under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies; and for statewide public awareness programs under RCW 70.93.200(7) ~~((; and to support employment of youth in litter cleanup as intended in RCW 70.93.020, and for litter pick up using other authorized agencies))~~. The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to be used by local governments for the development and implementation of contamination reduction and outreach plans for inclusion in comprehensive solid

waste management plans or by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) (~~Thirty~~) Forty percent to the department of ecology to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments (~~(for)~~ and commercial ((business and residential)) businesses to increase recycling markets and recycling and composting programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; and (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

**Sec. 6.** RCW 70.95.090 and 1991 c 298 s 3 are each amended to read as follows:

Each county and city comprehensive solid waste management plan shall include the following:

(1) A detailed inventory and description of all existing solid waste handling facilities including an inventory of any deficiencies in meeting current solid waste handling needs.

(2) The estimated long-range needs for solid waste handling facilities projected twenty years into the future.

(3) A program for the orderly development of solid waste handling facilities in a manner consistent with the plans for the entire county which shall:

(a) Meet the minimum functional standards for solid waste handling adopted by the department and all laws and regulations relating to air and water pollution, fire prevention, flood control, and protection of public health;

(b) Take into account the comprehensive land use plan of each jurisdiction;

(c) Contain a six year construction and capital acquisition program for solid waste handling facilities; and

(d) Contain a plan for financing both capital costs and operational expenditures of the proposed solid waste management system.

(4) A program for surveillance and control.

(5) A current inventory and description of solid waste collection needs and operations within each respective jurisdiction which shall include:

(a) Any franchise for solid waste collection granted by the utilities and transportation commission in the respective jurisdictions including the name of the holder of the franchise and the address of his or her place of business and the area covered by the franchise;

(b) Any city solid waste operation within the county and the boundaries of such operation;

(c) The population density of each area serviced by a city operation or by a franchised operation within the respective jurisdictions;

(d) The projected solid waste collection needs for the respective jurisdictions for the next six years.

(6) A comprehensive waste reduction and recycling element that, in accordance with the priorities established in RCW 70.95.010, provides programs that (a) reduce the amount of waste generated, (b) provide incentives and mechanisms for source separation, and (c) establish recycling opportunities for the source separated waste.

(7) The waste reduction and recycling element shall include the following:

(a) Waste reduction strategies;

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas. In urban areas, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(ii) Programs to monitor the collection of source separated waste at nonresidential sites where there is sufficient density to sustain a program;

(iii) Programs to collect yard waste, if the county or city submitting the plan finds that there are adequate markets or capacity for composted yard waste

within or near the service area to consume the majority of the material collected; and

(iv) Programs to educate and promote the concepts of waste reduction and recycling;

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

(d) Other information the county or city submitting the plan determines is necessary.

(8) An assessment of the plan's impact on the costs of solid waste collection. The assessment shall be prepared in conformance with guidelines established by the utilities and transportation commission. The commission shall cooperate with the Washington state association of counties and the association of Washington cities in establishing such guidelines.

(9) A review of potential areas that meet the criteria as outlined in RCW 70.95.165.

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of twenty-five thousand or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70.95.100 in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

(a) A list of actions for reducing contamination in recycling programs for single-family and multiple-family residences, commercial locations, and drop boxes depending on the jurisdictions system components;

(b) A list of key contaminants identified by the jurisdiction or identified by the department;

(c) A discussion of problem contaminants and the contaminants' impact on the collection system;

(d) An analysis of the costs and other impacts associated with contaminants to the recycling system; and

(e) An implementation schedule and details of how outreach is to be conducted. Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

**Sec. 7.** RCW 70.95.100 and 1989 c 431 s 6 are each amended to read as follows:

(1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, in the preparation, review, and revision of solid waste management plans required by this chapter. Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of

the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid waste management plan prepared pursuant to RCW 70.95.260 shall be consistent with these guidelines.

(2) The department shall be responsible for development and implementation of a comprehensive statewide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4)(a) The department must create and implement a statewide recycling contamination reduction and outreach plan based on best management practices for recycling, developed with stakeholder input by July 1, 2020. Jurisdictions may use the statewide plan in lieu of developing their own plan.

(b) The department must provide technical assistance and create guidance to help local jurisdictions determine the extent of contamination in their regional recycling and to develop contamination reduction and outreach plans. Contamination means any material not included on the local jurisdiction's acceptance list.

(c) Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, web sites, or community events, informing recycling drop box customers about contamination, and improving signage.

(d) The department must cite the sources of information that it relied upon, including any peer-reviewed science, in the development of the best management practices for recycling under (a) of this subsection and the guidance developed under (b) of this subsection.

(5) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70.95.130 available to the department for potential use in other areas of the state.

**Sec. 8.** RCW 70.95.130 and 1969 ex.s. c 134 s 13 are each amended to read as follows:

Any county may apply to the department on a form prescribed thereby for financial aid for the preparation and implementation of the comprehensive county plan for solid waste management required by RCW 70.95.080, including contamination reduction and outreach plans. Any city electing to prepare an independent city plan, a joint city plan, or a joint county-city plan for solid waste management for inclusion in the county comprehensive plan may apply for financial aid for such purpose through the county. Every city application for financial aid for planning shall be filed with the county auditor and shall be included as a part of the county's application for financial aid. Any city preparing an independent plan shall provide for disposal sites wholly within its jurisdiction.



The department shall allocate to the counties and cities applying for financial aid for planning and implementation, including contamination reduction and outreach plan development and implementation, such funds as may be available pursuant to legislative appropriations or from any federal grants for such purpose.

The department shall determine priorities and allocate available funds among the counties and cities applying for aid according to criteria established by regulations of the department considering population, urban development, environmental effects of waste disposal, existing waste handling practices, and the local justification of their proposed expenditures.

**NEW SECTION. Sec. 9.** Sections 1 through 4 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 10.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2019.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

Passed by the House April 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 167

[Substitute House Bill 1545]

### BALLOT DECLARATIONS--CURING--RECORDS

AN ACT Relating to curing ballots to assure that votes are counted; and amending RCW 29A.60.165.

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

**Sec. 1.** RCW 29A.60.165 and 2013 c 11 s 63 are each amended to read as follows:

(1) If the voter neglects to sign the ballot declaration, the auditor shall notify the voter by first-class mail and advise the voter of the correct procedures for completing the unsigned declaration. If the ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information.

(2)(a) If the handwriting of the signature on a ballot declaration is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by first-class mail, enclosing a copy of the declaration, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the final

meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information.

(b) If the signature on a ballot declaration is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on a ballot declaration is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter submitted updated information. The record must be updated each day that ballots are processed under RCW 29A.60.160, each time a voter was contacted or the notice was mailed, and when the voter submitted updated information. ~~((That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request))~~ The auditor shall send the record, and any updated records, to the secretary of state no later than forty-eight hours after the record is created or updated. The secretary of state shall make all records publicly available no later than twenty-four hours after receiving the record.

Passed by the House March 11, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 168

[Substitute House Bill 1587]

### FRUIT AND VEGETABLE INCENTIVES PROGRAM

AN ACT Relating to increasing access to fruits and vegetables for individuals with limited incomes; adding a new section to chapter 43.70 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature finds that nearly eleven percent of Washington households, including more than two hundred eighty thousand children, are food insecure with limited or uncertain availability of nutritionally adequate and safe foods. The legislature further finds that food insecurity contributes to poor quality diets; chronic medical conditions such as diabetes, heart disease, and hypertension; and negative outcomes for children and families, including harmful effects on behavioral health. Further, food insecurity disproportionately affects people with low incomes, people of color, and rural residents.

(2) The legislature finds that food assistance programs such as the special supplemental nutrition program for women, infants, and children and the supplemental nutrition assistance program are effective in significantly reducing

food insecurity; that participants report difficulty affording and accessing healthy foods; and that fruit and vegetable consumption among such food assistance program participants is far below national dietary guidelines.

(3) The legislature finds that the state department of health has successfully managed a food insecurity nutrition incentives grant from the United States department of agriculture that provides a framework for providing fruit and vegetable incentives for low-income shoppers and that those federal funds are set to expire in March 2020. Further, the legislature finds that more than two million dollars in fruit and vegetable incentives have been redeemed by food insecure Washingtonians through this grant, helping to alleviate food insecurity and increase fruit and vegetable consumption.

(4) Therefore, the legislature intends to create a state fruit and vegetable incentives program to benefit people who are food insecure, our agricultural industry, and retailers across the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The fruit and vegetable incentives program is established to increase fruit and vegetable consumption among food insecure individuals with limited incomes. The fruit and vegetable incentives program includes:

(a) Farmers market basic food incentives to provide eligible participants with extra benefits to purchase fruits and vegetables at authorized farmers markets when the participant uses basic food benefits;

(b) Grocery store basic food incentives to provide eligible participants with extra benefits to purchase fruits and vegetables at authorized grocery stores when the participant uses basic food benefits; and

(c) Fruit and vegetable vouchers provided by a health care provider, health educator, community health worker, or other health professional to an eligible participant for use at an authorized farmers market or grocery store.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer the fruit and vegetable incentives program. As part of its duties, the department shall:

(a) Collaborate with other state agencies whose missions and programs closely align with the fruit and vegetable incentives program, including the department of social and health services and the department of agriculture, in the development and implementation of the program;

(b) Provide resources, coordination, and technical assistance to program partners for targeted outreach to food insecure populations and for administration of the program. Program partners may include farmers markets, grocery stores, government agencies, health care systems, and nonprofit organizations; and

(c) Adopt rules to implement this section.

(3) Farmers market basic food incentives may be provided to eligible participants for use at farmers markets authorized by the department. The incentives are additional funds that may be used to purchase eligible fruits and vegetables as defined by the department. When authorizing a participating farmers market, the department may give preference to a farmers market that accepts or has previously accepted supplemental nutrition assistance program benefits, has the capacity to accept supplemental nutrition assistance program

benefits, or is located in a county with a high level of food insecurity, as defined by the department.

(4) Grocery store basic food incentives may be provided to eligible participants for use at a grocery store that is an authorized supplemental nutrition assistance program retailer and approved by the department. The incentives are additional funds that may be used to purchase eligible fruits and vegetables as defined by the department. When approving a participating grocery store, the department may give preference to a store that is located in a county with a high level of food insecurity.

(5) Fruit and vegetable vouchers are cash-value vouchers that may be distributed by a participating health care provider, health educator, community health worker, or other health professional to a patient who is eligible for basic food and has a qualifying health condition, as defined by the department, or is food insecure. The voucher may be redeemed at a participating retailer, including an authorized farmers market or grocery store. The department shall approve participating health care systems and may give preference to systems that have operated fruit and vegetable prescription programs, routinely screen patients for food insecurity, have a high percentage of patients who are medicaid clients, or are located in a county with a high level of food insecurity.

(6) Subject to the availability of funds, the department must evaluate the fruit and vegetable incentives program effectiveness. When conducting the evaluation, the department must collect information related to fruit and vegetable consumption by eligible participants, levels of food security, and likely impacts on public health outcomes as a result of the program. By July 1, 2021, and in compliance with RCW 43.01.036, the department must submit a progress report to the governor and the legislature describing the results of the program and recommending any legislative or programmatic changes to improve the effectiveness of program delivery. By December 1, 2023, the department must submit a complete program evaluation describing the program's effectiveness and including any additional recommendations for program improvements.

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

(a) "Eligible participant" means:

(i) For the purposes of subsection (1)(a) and (b) of this section, a recipient of basic food benefits, including the supplemental nutrition assistance program and the food assistance program, as authorized under Title 74 RCW; or

(ii) For the purposes of subsection (1)(c) of this section, a person who is determined to be food insecure by a participating health care provider.

(b) "Food insecure" means a state in which consistent access to adequate food is limited by a lack of money and other resources at times during the year.

Passed by the House April 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 169

[House Bill 1672]

## RECORDING WINE AND SAKE

AN ACT Relating to recorking wine and sake; and amending RCW 66.24.170, 66.24.320, and 66.24.400.

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

**Sec. 1.** RCW 66.24.170 and 2017 c 238 s 1 are each amended to read as follows:

(1) There is a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Notwithstanding any language in this title to the contrary, a domestic winery may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A domestic winery may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production. Except as provided in this section, any winery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a winery operating as a distributor may maintain a warehouse off the premises of the winery for the distribution of wine of its own production provided that: (a) The warehouse has been approved by the board under RCW 66.24.010; and (b) the number of warehouses off the premises of the winery does not exceed one.

(4)(a) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, may sell wine of its own production at retail, and may sell for off-premises consumption wines of its own production in kegs or sanitary containers meeting the applicable requirements of federal law brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale, provided that: ~~((+))~~ (i) Each additional location has been approved by the board under RCW 66.24.010; ~~((+))~~ (ii) the total number of additional locations does not exceed four; ~~((+))~~ (iii) a winery may not act as a distributor at any such additional location; and ~~((+))~~ (iv) any person selling or serving wine at an additional location for on-premises consumption must obtain a class 12 or class 13 alcohol server permit. Each additional location is deemed to be part of the winery license for the purpose of this title. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable. Nothing in this subsection may be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(b) A customer of a domestic winery may remove from the premises of the domestic winery or from a tasting room location approved under (a) of this

subsection, recorked or recapped in its original container, any portion of wine purchased for on-premises consumption.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the four additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or

resellers. However, if a farmers market does not satisfy this subsection (5)(g)(i)(B), a farmers market is still considered a "qualifying farmers market" if the total combined gross annual sales of farmers and processors at the farmers market is one million dollars or more;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine is deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

(7) During an event held by a nonprofit holding a special occasion license issued under RCW 66.24.380, a domestic winery licensed under this section may take orders, either in writing or electronically, and accept payment for wines of its own production under the following conditions:

(a) Wine produced by the domestic winery may be served for on-premises consumption by the special occasion licensee;

(b) The domestic winery delivers wine to the consumer on a date after the conclusion of the special occasion event;

(c) The domestic winery delivers wine to the consumer at a location different from the location at which the special occasion event is held;

(d) The domestic winery complies with all requirements in chapter 66.20 RCW for direct sale of wine to consumers;

(e) The wine is not sold for resale; and

(f) The domestic winery is entitled to all proceeds from the sale and delivery of its wine to a consumer after the conclusion of the special occasion event, but may enter into an agreement to share a portion of the proceeds of these sales with the special occasion licensee licensed under RCW 66.24.380.

**Sec. 2.** RCW 66.24.320 and 2007 c 370 s 9 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine or sake that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with ~~((†))~~ a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the



sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

**Sec. 3.** RCW 66.24.400 and 2011 c 119 s 401 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine or sake which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the

endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

Passed by the House April 18, 2019.

Passed by the Senate April 10, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 170

[Engrossed Substitute House Bill 1772]

### MOTORIZED FOOT SCOOTERS

AN ACT Relating to motorized foot scooters; amending RCW 46.04.336, 46.04.670, 46.61.710, and 46.20.500; and adding a new section to chapter 46.61 RCW.

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

**Sec. 1.** RCW 46.04.336 and 2009 c 275 s 3 are each amended to read as follows:

"Motorized foot scooter" means a device with ~~((no more than))~~ two ~~((ten-inch or smaller diameter))~~ or three wheels that has handlebars, ~~((is designed to))~~ a floorboard that can be stood upon ~~((by the operator))~~ while riding, and is powered by an internal combustion engine or electric motor that ~~((is capable of propelling the device with or without human propulsion at a speed no more))~~ has a maximum speed of no greater than twenty miles per hour on level ground.

For purposes of this section, a motor-driven cycle, a moped, an electric-assisted bicycle, or a motorcycle is not a motorized foot scooter.

**Sec. 2.** RCW 46.04.670 and 2011 c 171 s 19 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. "Vehicle" does not include power wheelchairs or devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. mopeds are not considered vehicles or motor vehicles for the purposes of chapter 46.70 RCW. Bicycles and motorized foot scooters are not considered vehicles for the purposes of chapter 46.12, 46.16A, or 46.70 RCW or RCW 82.12.045. Electric personal assistive mobility devices and motorized foot scooters are not considered vehicles or motor vehicles for the purposes of chapter 46.12, 46.16A, 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle, except for the purposes of chapter 46.61 RCW.

**Sec. 3.** RCW 46.61.710 and 2018 c 60 s 5 are each amended to read as follows:

(1) No person shall operate a moped upon the highways of this state unless the moped has been assigned a moped registration number and displays a moped permit in accordance with RCW 46.16A.405(2).

(2) Notwithstanding any other provision of law, a moped may not be operated on a bicycle path or trail, bikeway, equestrian trail, or hiking or recreational trail.

(3) Operation of a moped, electric personal assistive mobility device, or motorized foot scooter on a fully controlled limited access highway is unlawful. Operation of a moped on a sidewalk is unlawful. Operation of a motorized foot scooter or class 3 electric-assisted bicycle on a sidewalk is unlawful, unless there is no alternative for a motorized foot scooter or a class 3 electric-assisted bicycle to travel over a sidewalk as part of a bicycle or pedestrian path, or if authorized by local ordinance, as provided in section 5 of this act.

(4) Removal of any muffling device or pollution control device from a moped is unlawful.

(5) Subsections (1), (2), and (4) of this section do not apply to electric-assisted bicycles.

(6) Electric-assisted bicycles and motorized foot scooters may have access to highways of the state and may be parked to the same extent as bicycles, subject to RCW 46.61.160.

(7) Subject to subsection (10) of this section, class 1 and class 2 electric-assisted bicycles and motorized foot scooters may be operated on a shared-use path or any part of a highway designated for the use of bicycles, but local jurisdictions or state agencies may restrict or otherwise limit the access of electric-assisted bicycles and motorized foot scooters, and local jurisdictions or state agencies may regulate the use of class 1 and class 2 electric-assisted bicycles and motorized foot scooters on facilities (~~and~~), properties, and rights-of-way under their jurisdiction and control. Local regulation of the operation of class 1 or class 2 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(8) Class 3 electric-assisted bicycles may be operated on facilities that are within or adjacent to a highway. Class 3 electric-assisted bicycles may not be operated on a shared-use path, except where local jurisdictions may allow the use of class 3 electric-assisted bicycles. State agencies or local jurisdictions may regulate the use of class 3 electric-assisted bicycles on facilities and properties under their jurisdiction and control. Local regulation of the operation of class 3 electric-assisted bicycles, upon a shared use path designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable; however, this does not apply to local regulations of a shared use path in effect as of January 1, 2018.

(9) Except as otherwise provided in this section, an individual shall not operate an electric-assisted bicycle or motorized foot scooter on a trail that is specifically designated as nonmotorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A local authority or agency of this state having jurisdiction over a trail described in this subsection may allow the operation of an electric-assisted bicycle or motorized foot scooter on that trail.

(10) Subsections (1) and (4) of this section do not apply to motorized foot scooters. Subsection (2) of this section applies to motorized foot scooters when the bicycle path, trail, bikeway, equestrian trail, or hiking or recreational trail was built or is maintained with federal highway transportation funds.

Additionally, any new trail or bicycle path or readily identifiable existing trail or bicycle path not built or maintained with federal highway transportation funds may be used by persons operating motorized foot scooters only when ~~((appropriately))~~ signed to allow motorized foot scooter use.

(11) A person operating an electric personal assistive mobility device (EPAMD) shall obey all speed limits and shall yield the right-of-way to pedestrians and human-powered devices at all times. An operator must also give an audible signal before overtaking and passing a pedestrian. Except for the limitations of this subsection, persons operating an EPAMD have all the rights and duties of a pedestrian.

(12) The use of an EPAMD may be regulated in the following circumstances:

(a) A municipality and the department of transportation may prohibit the operation of an EPAMD on public highways within their respective jurisdictions where the speed limit is greater than twenty-five miles per hour;

(b) A municipality may restrict the speed of an EPAMD in locations with congested pedestrian or nonmotorized traffic and where there is significant speed differential between pedestrians or nonmotorized traffic and EPAMD operators. The areas in this subsection must be designated by the city engineer or designee of the municipality. Municipalities shall not restrict the speed of an EPAMD in the entire community or in areas in which there is infrequent pedestrian traffic;

(c) A state agency or local government may regulate the operation of an EPAMD within the boundaries of any area used for recreation, open space, habitat, trails, or conservation purposes.

**Sec. 4.** RCW 46.20.500 and 2018 c 60 s 4 are each amended to read as follows:

(1) No person may drive either a two-wheeled or a three-wheeled motorcycle, or a motor-driven cycle unless such person has a valid driver's license specially endorsed by the director to enable the holder to drive such vehicles.

(2) However, a person sixteen years of age or older, holding a valid driver's license of any class issued by the state of the person's residence, may operate a moped without taking any special examination for the operation of a moped.

(3) No driver's license is required for operation of an electric-assisted bicycle. Persons under sixteen years of age may not operate a class 3 electric-assisted bicycle.

(4) No driver's license is required to operate an electric personal assistive mobility device or a power wheelchair.

(5) No driver's license is required to operate a motorized foot scooter. Motorized foot scooters may not be operated at any time from a half hour after sunset to a half hour before sunrise without reflectors of a type approved by the state patrol. Persons under sixteen years of age may not operate a motorized foot scooter unless provided otherwise by a local jurisdiction. A motorized foot scooter may be operated at a speed of up to fifteen miles per hour on a roadway or bicycle lane, and may be operated on a sidewalk or on pedestrian or bicycle trails if authorized by a local jurisdiction, which shall specify the maximum speed of such sidewalk operation.

(6) A person holding a valid driver's license may operate a motorcycle as defined under RCW 46.04.330(2) without a motorcycle endorsement.

(7) A person operating a motorcycle with a stabilizing conversion kit must have a valid driver's license specially endorsed by the director for a three-wheeled motorcycle to enable the holder to operate such a motorcycle.

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A local authority may regulate the operation of motorized foot scooters and shared scooters within its jurisdiction which may include, but is not limited to, the following:

(a) Determining if shared scooters may be operated within the local authority's jurisdiction, and if allowed, where they may be operated;

(b) Requiring scooter share programs to pay reasonable fees and taxes;

(c) Requiring that shared scooters be staged in a manner compliant with the Americans with disabilities act, to ensure clear passage of pedestrian traffic on sidewalks; and

(d) Adopting and assessing penalties for moving or parking violations involving shared scooters to the person responsible for such violation.

(2) A contract offered by a scooter share program to a prospective scooter share contractor must make the following written disclosures to a prospective scooter share contractor:

WHILE YOU ARE LOCATING AND RETURNING SCOOTERS, PROVIDING TRANSPORT, BATTERY CHARGE, OR REPAIR SERVICES, YOU MAY BE ENGAGED IN COMMERCIAL ACTIVITY. YOUR PRIVATE PASSENGER AUTOMOBILE, HOMEOWNERS, CONDOMINIUM, OR RENTERS INSURANCE POLICIES MIGHT NOT PROVIDE COVERAGE FOR YOU, DEPENDING ON THE TERMS OF YOUR POLICY.

(3) For the purposes of this section:

(a) "Scooter share program" means a person offering shared scooters for hire. All scooter share programs must carry the following insurance coverage:

(i) Commercial general liability insurance coverage with a limit of at least one million dollars for each occurrence and five million dollars aggregate;

(ii) Automobile liability insurance coverage with a combined single limit of at least one million dollars; and

(iii) If a local authority authorizes operation of a motorized foot scooter by persons under sixteen years of age, the local authority may require all scooter share programs offering shared scooters for hire to such persons under sixteen years of age to carry insurance coverage at greater amounts negotiated between the programs and the local authority.

(b) "Scooter share contractor" means a person other than an employee of a scooter share program retained under an independent contract to provide scooter location or transport and/or scooter battery charging or repair services to a scooter share program.

(c) "Shared scooter" means any motorized foot scooter offered for hire. All shared scooters must bear a single unique alphanumeric identification visible from a distance of five feet, which shall not be obfuscated by branding or other markings, which shall be used throughout the state, including by local authorities, to identify the shared scooter.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 171

[Engrossed Substitute House Bill 1879]

### PRESCRIPTION DRUG UTILIZATION MANAGEMENT

AN ACT Relating to regulating and reporting of utilization management in prescription drug benefits; adding new sections to chapter 48.43 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

The definitions in this section apply throughout this section and sections 2 and 3 of this act unless the context clearly requires otherwise.

(1) "Clinical practice guidelines" means a systemically developed statement to assist decision making by health care providers and patients about appropriate health care for specific clinical circumstances and conditions.

(2) "Clinical review criteria" means the written screening procedures, decision rules, medical protocols, and clinical practice guidelines used by a health carrier or prescription drug utilization management entity as an element in the evaluation of medical necessity and appropriateness of requested prescription drugs under a health plan.

(3) "Emergency fill" means a limited dispensed amount of medication that allows time for the processing of prescription drug utilization management.

(4) "Medically appropriate" means prescription drugs that under the applicable standard of care are appropriate: (a) To improve or preserve health, life, or function; (b) to slow the deterioration of health, life, or function; or (c) for the early screening, prevention, evaluation, diagnosis, or treatment of a disease, condition, illness, or injury.

(5) "Prescription drug utilization management" means a set of formal techniques used by a health carrier or prescription drug utilization management entity, that are designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy, or efficiency of prescription drugs including, but not limited to, prior authorization and step therapy protocols.

(6) "Prescription drug utilization management entity" means an entity affiliated with, under contract with, or acting on behalf of a health carrier to perform prescription drug utilization management.

(7) "Prior authorization" means a mandatory process that a carrier or prescription drug utilization management entity requires a provider or facility to follow to determine if a service is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness in relation to the applicable plan.

(8) "Step therapy protocol" means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition will be covered by a health carrier.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

For health plans delivered, issued for delivery, or renewed on or after January 1, 2021, clinical review criteria used to establish a prescription drug utilization management protocol must be evidence-based and updated on a regular basis through review of new evidence, research, and newly developed treatments.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

For health plans delivered, issued for delivery, or renewed on or after January 1, 2021:

(1) When coverage of a prescription drug for the treatment of any medical condition is subject to prescription drug utilization management, the patient and prescribing practitioner must have access to a clear, readily accessible, and convenient process to request an exception through which the prescription drug utilization management can be overridden in favor of coverage of a prescription drug prescribed by a treating health care provider. A health carrier or prescription drug utilization management entity may use its existing medical exceptions process to satisfy this requirement. The process must be easily accessible on the health carrier and prescription drug utilization management entity's web site. Approval criteria must be clearly posted on the health carrier and prescription drug utilization management entity's web site. This information must be in plain language and understandable to providers and patients.

(2) Health carriers must disclose all rules and criteria related to the prescription drug utilization management process to all participating providers, including the specific information and documentation that must be submitted by a health care provider or patient to be considered a complete exception request.

(3) An exception request must be granted if the health carrier or prescription drug utilization management entity determines that the evidence submitted by the provider or patient is sufficient to establish that:

(a) The required prescription drug is contraindicated or will likely cause a clinically predictable adverse reaction by the patient;

(b) The required prescription drug is expected to be ineffective based on the known clinical characteristics of the patient and the known characteristics of the prescription drug regimen;

(c) The patient has tried the required prescription drug or another prescription drug in the same pharmacologic class or a drug with the same mechanism of action while under his or her current or a previous health plan, and such prescription drug was discontinued due to lack of efficacy or effectiveness, diminished effect, or an adverse event;

(d) The patient is currently experiencing a positive therapeutic outcome on a prescription drug recommended by the patient's provider for the medical condition under consideration while on his or her current or immediately preceding health plan, and changing to the required prescription drug may cause clinically predictable adverse reactions, or physical or mental harm to, the patient; or

(e) The required prescription drug is not in the best interest of the patient, based on documentation of medical appropriateness, because the patient's use of the prescription drug is expected to:

(i) Create a barrier to the patient's adherence to or compliance with the patient's plan of care;

(ii) Negatively impact a comorbid condition of the patient;

(iii) Cause a clinically predictable negative drug interaction; or

(iv) Decrease the patient's ability to achieve or maintain reasonable functional ability in performing daily activities.

(4) Upon the granting of an exception, the health carrier or prescription drug utilization management entity shall authorize coverage for the prescription drug prescribed by the patient's treating health care provider.

(5)(a) For nonurgent exception requests, the health carrier or prescription drug utilization management entity must:

(i) Within three business days notify the treating health care provider that additional information, as disclosed under subsection (2) of this section, is required in order to approve or deny the exception request, if the information provided is not sufficient to approve or deny the request; and

(ii) Within three business days of receipt of sufficient information from the treating health care provider as disclosed under subsection (2) of this section, approve a request if the information provided meets at least one of the conditions referenced in subsection (3) of this section or if deemed medically appropriate, or deny a request if the requested service does not meet at least one of the conditions referenced in subsection (3) of this section.

(b) For urgent exception requests, the health carrier or prescription drug utilization management entity must:

(i) Within one business day notify the treating health care provider that additional information, as disclosed under subsection (2) of this section, is required in order to approve or deny the exception request, if the information provided is not sufficient to approve or deny the request; and

(ii) Within one business day of receipt of sufficient information from the treating health care provider as disclosed under subsection (2) of this section, approve a request if the information provided meets at least one of the conditions referenced in subsection (3) of this section or if deemed medically appropriate, or deny a request if the requested service does not meet at least one of the conditions referenced in subsection (3) of this section.

(c) If a response by a health carrier or prescription drug utilization management entity is not received within the time frames established under this section, the exception request is deemed granted.

(d) For purposes of this subsection, exception requests are considered urgent when an enrollee is experiencing a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function, or when an enrollee is undergoing a current course of treatment using a nonformulary drug.

(6) Health carriers must cover an emergency supply fill if a treating health care provider determines an emergency fill is necessary to keep the patient stable while the exception request is being processed. This exception shall not be used to solely justify any further exemption.

(7) When responding to a prescription drug utilization management exception request, a health carrier or prescription drug utilization management entity shall clearly state in their response if the exception request was approved or denied. The health carrier must use clinical review criteria as referenced in



section 2 of this act for the basis of any denial. Any denial must be based upon and include the specific clinical review criteria relied upon for the denial and include information regarding how to appeal denial of the exception request. If the exception request from a treating health care provider is denied for administrative reasons, or for not including all the necessary information, the health carrier or prescription drug utilization management entity must inform the provider what additional information is needed and the deadline for its submission.

(8) The health carrier or prescription drug utilization management entity must permit a stabilized patient to remain on a drug during an exception request process.

(9) A health carrier must provide sixty days' notice to providers and patients for any new policies or procedures applicable to prescription drug utilization management protocols. New health carrier policies or procedures may not be applied retroactively.

(10) This section does not prevent:

(a) A health carrier or prescription drug utilization management entity from requiring a patient to try an AB-rated generic equivalent or a biological product that is an interchangeable biological product prior to providing coverage for the equivalent branded prescription drug;

(b) A health carrier or prescription drug utilization management entity from denying an exception for a drug that has been removed from the market due to safety concerns from the federal food and drug administration; or

(c) A health care provider from prescribing a prescription drug that is determined to be medically appropriate.

**NEW SECTION. Sec. 4.** The insurance commissioner shall adopt rules necessary for the implementation of this act.

Passed by the House April 18, 2019.

Passed by the Senate April 12, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 172

[House Bill 1900]

### PREVENTION AND FAMILY SERVICES

AN ACT Relating to implementing the family first prevention services act, P.L. 115-123, regarding expansion of services to children and families; amending RCW 13.34.025, 26.44.030, 74.14C.020, 74.15.020, 13.34.065, 13.34.130, 13.34.138, and 13.34.145; reenacting and amending RCW 13.34.030, 26.44.020, 74.13.020, and 74.13.031; adding new sections to chapter 13.34 RCW; adding a new section to chapter 26.44 RCW; adding a new section to chapter 74.13 RCW; and providing an effective date.

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

**Sec. 1.** RCW 13.34.025 and 2018 c 284 s 1 are each amended to read as follows:

(1) The department and agencies shall develop methods for coordination of services to parents and children in child dependency cases. To the maximum extent possible under current funding levels, the department and agencies must:

(a) Coordinate and integrate services to children and families, using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate. Assessment criteria should screen for multiple needs;

(b) Develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make; and

(c) Access training for department and agency staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.

(2) The department shall coordinate within the administrations of the department, and with contracted service providers, to ensure that parents in dependency proceedings under this chapter receive priority access to remedial services recommended by the department in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services may also be provided to caregivers other than the parents as identified in RCW 13.34.138.

(a) For purposes of this chapter, remedial services are those services defined in the federal adoption and safe families act as ~~((time-limited))~~ family reunification services that facilitate the reunification of the child safely and appropriately within a timely fashion. Remedial services include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

(b) The department shall provide funds for remedial services if the parent is unable to pay to the extent funding is appropriated in the operating budget or otherwise available to the department for such specific services. As a condition for receiving funded remedial services, the court may inquire into the parent's ability to pay for all or part of such services or may require that the parent make appropriate applications for funding to alternative funding sources for such services.

(c) If court-ordered remedial services are unavailable for any reason, including lack of funding, lack of services, or language barriers, the department shall promptly notify the court that the parent is unable to engage in the treatment due to the inability to access such services.

(d) This section does not create an entitlement to services and does not create judicial authority to order the provision of services except for the specific purpose of making reasonable efforts to remedy parental deficiencies identified in a dependency proceeding under this chapter.

**Sec. 2.** RCW 13.34.030 and 2018 c 284 s 3 and 2018 c 58 s 54 are each reenacted and amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between

the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(10) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(11) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(12) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(13) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or ~~((time-limited))~~ family reunification service as described in RCW 13.34.025(2).

(14) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(15) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

(16) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(17) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW ~~((26.26.104))~~ 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(18) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs

are not remedial services or family reunification services as described in RCW 13.34.025(2).

(19) "~~(Preventive)~~ Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

(20) "Qualified residential treatment program" means a program licensed as a group care facility under chapter 74.15 RCW that also qualifies for funding under the federal family first prevention services act under 42 U.S.C. Sec. 672(k) and meets the requirements provided in section 3 of this act.

(21) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

~~((19))~~ (22) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

~~((20))~~ (23) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

~~((21))~~ (24) "Social study" means a written evaluation of matters relevant to the disposition of the case ~~(and shall contain the following information:~~

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any

~~previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;~~

~~(d) A statement of the likely harms the child will suffer as a result of removal;~~

~~(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and~~

~~(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary)) that contains the information required by section 4 of this act.~~

~~((22)) (25) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.~~

~~((23)) (26) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.~~

NEW SECTION. Sec. 3. A new section is added to chapter 13.34 RCW to read as follows:

A qualified residential treatment program as defined in this chapter must meet the following requirements:

(1) Use a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances; and

(2) Be able to implement treatment for the child that is identified in an assessment that:

(a) Is completed by a trained professional or licensed clinician who is a "qualified individual" as that term is defined under the federal family first prevention services act;

(b) Assesses the strengths and needs of the child; and

(c) Determines whether the child's needs can be met with family members or through placement in a foster family home or, if not, which available placement setting would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the child's permanency plan.

NEW SECTION. Sec. 4. A new section is added to chapter 13.34 RCW to read as follows:

A social study as defined in this chapter must contain the following information:

(1) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(2) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(3) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the prevention services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(4)(a) If the child is placed, for at least thirty days, in a qualified residential treatment program as defined in this chapter, a copy of the assessment described in section 3 of this act.

(b) As long as the child remains placed in a qualified residential treatment program and the department anticipates that the child will remain in this placement for at least sixty days, or if the child has already been in this placement for at least sixty days, the social study must also include the following information sufficient for the juvenile court to determine at each status hearing concerning the child:

(i) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(ii) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(iii) Whether the placement is consistent with the child's permanency plan;

(iv) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(v) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home;

(5) A statement of the likely harms the child will suffer as a result of removal;

(6) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(7) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**Sec. 5.** RCW 26.44.020 and 2018 c 284 s 33 and 2018 c 171 s 3 are each reenacted and amended to read as follows:

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

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's

health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in chapter 26.44 RCW and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review



by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

~~((7))~~ (8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((8))~~ (9) "Court" means the superior court of the state of Washington, juvenile department.

~~((9))~~ (10) "Department" means the department of children, youth, and families.

~~((10))~~ (11) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

~~((11))~~ (12) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

~~((12))~~ (13) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

~~((13))~~ (14) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

~~((14))~~ (15) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

~~((15))~~ (16) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

~~((16))~~ (17) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

~~((17))~~ (18) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's

substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

~~((18))~~ (19) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((19))~~ (20) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

~~((20))~~ (21) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(22) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

~~((21))~~ (23) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((22))~~ (24) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

~~((23))~~ (25) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

~~((24))~~ (26) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

~~((25))~~ (27) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

~~((26))~~ (28) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient

evidence for the department to determine whether the alleged child abuse did or did not occur.

**Sec. 6.** RCW 26.44.030 and 2018 c 77 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of children, youth, and families, licensed or certified child care providers or their employees, employee of the department of social and health services, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, state family and children's ombuds or any volunteer in the ombuds's office, or host home program has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Organization" includes a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, governmental entity, other than the federal government, and any other individual or group engaged in a trade, occupation, enterprise, governmental function, charitable function, or similar activity in this state whether or not the entity is operated as a nonprofit or for-profit entity.

(iii) "Reasonable cause" means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.

(iv) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(v) "Sexual contact" has the same meaning as in RCW 9A.44.010.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the

children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11 and 13 RCW and this title, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency, including military law enforcement, if appropriate. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has

had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report that a child is a candidate for foster care as defined in RCW 26.44.020, the department may provide prevention and family services and programs to the child's parents, guardian, or caregiver. The department may not be held civilly liable for the decision regarding whether to provide prevention and family services and programs, or for the provision of those services and programs, for a child determined to be a candidate for foster care.

(11) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

~~((H))~~ (12)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) ~~((Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes,))~~ Indicates a child's health, safety, and welfare will be seriously endangered if not taken into custody for reasons including, but ~~((is))~~ not limited to, sexual abuse and sexual exploitation of the child as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW.

(c) In addition, the department may use a family assessment response to assess for and provide prevention and family services and programs, as defined in RCW 26.44.020, for the following children and their families, consistent with requirements under the federal family first prevention services act and this section:

(i) A child who is a candidate for foster care, as defined in RCW 26.44.020; and

(ii) A child who is in foster care and who is pregnant, parenting, or both.

(d) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

~~((42))~~ (13)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

~~((43))~~ (14) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report(~~;~~ ~~however,~~) except as follows:

(I) Upon parental agreement, the family assessment response period may be extended up to one hundred twenty days. The department's extension of the family assessment response period must be operated within the department's appropriations;

(II) For cases in which the department elects to use a family assessment response as authorized under subsection (12)(c) of this section, and upon agreement of the child's parent, legal guardian, legal custodian, or relative placement, the family assessment response period may be extended up to one

year. The department's extension of the family assessment response must be operated within the department's appropriations.

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian agree to participate in services before services are initiated. The department shall inform the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not agree to participate in services.

~~((14))~~ (15)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

~~((15))~~ (16) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombuds of the contents of the report. The department shall also notify the ombuds of the disposition of the report.

~~((16))~~ (17) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

~~((17))~~ (18)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as



a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

~~((18))~~ (19) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

~~((19))~~ (20) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((20))~~ (21) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

~~((21))~~ (22) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

~~((22))~~ (23) The department shall make available on its public web site a downloadable and printable poster that includes the reporting requirements included in this section. The poster must be no smaller than eight and one-half by eleven inches with all information on one side. The poster must be made available in both the English and Spanish languages. Organizations that include employees or volunteers subject to the reporting requirements of this section must clearly display this poster in a common area. At a minimum, this poster must include the following:

- (a) Who is required to report child abuse and neglect;
- (b) The standard of knowledge to justify a report;
- (c) The definition of reportable crimes;
- (d) Where to report suspected child abuse and neglect; and
- (e) What should be included in a report and the appropriate timing.

**Sec. 7.** RCW 74.13.020 and 2018 c 284 s 36, 2018 c 58 s 51, and 2018 c 34 s 3 are each reenacted and amended to read as follows:

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

(1) "Case management" means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan, coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

- (a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in chapter 26.44 RCW and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(6) "Department" means the department of children, youth, and families.

~~((6))~~ (7) "Extended foster care services" means residential and other support services the department is authorized to provide to dependent children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

~~((7))~~ (8) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

~~((8))~~ (9) "Medical condition" means, for the purposes of qualifying for extended foster care services, a physical or mental health condition as documented by any licensed health care provider regulated by a disciplining authority under RCW 18.130.040.

~~((9))~~ (10) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

~~((10))~~ (11) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

~~((11))~~ (12) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

~~((12))~~ (13) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

~~((13))~~ (14) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(15) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

~~((14))~~ (16) "Secretary" means the secretary of the department.

~~((15))~~ (17) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

~~((16))~~ (18) "Unsupervised" has the same meaning as in RCW 43.43.830.

~~((17))~~ (19) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

**Sec. 8.** RCW 74.13.031 and 2018 c 284 s 37, 2018 c 80 s 1, and 2018 c 34 s 5 are each reenacted and amended to read as follows:

(1) The department shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens

services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department is encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized

to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11)(a) The department shall provide continued extended foster care services to nonminor dependents who are:

(i) Enrolled in a secondary education program or a secondary education equivalency program;

(ii) Enrolled and participating in a postsecondary academic or postsecondary vocational education program;

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment;

(iv) Engaged in employment for eighty hours or more per month; or

(v) Not able to engage in any of the activities described in (a)(i) through (iv) of this subsection due to a documented medical condition.

(b) To be eligible for extended foster care services, the nonminor dependent must have been dependent at the time that he or she reached age eighteen years. If the dependency case of the nonminor dependent was dismissed pursuant to RCW 13.34.267, he or she may receive extended foster care services pursuant to a voluntary placement agreement under RCW 74.13.336 or pursuant to an order of dependency issued by the court under RCW 13.34.268. A nonminor dependent whose dependency case was dismissed by the court may request extended foster care services before reaching age twenty-one years. Eligible nonminor dependents may unenroll and reenroll in extended foster care through a voluntary placement agreement an unlimited number of times between ages eighteen and twenty-one.

(c) The department shall develop and implement rules regarding youth eligibility requirements.

(d) The department shall make efforts to ensure that extended foster care services maximize medicaid reimbursements. This must include the department ensuring that health and mental health extended foster care providers participate in medicaid, unless the condition of the extended foster care youth requires specialty care that is not available among participating medicaid providers or there are no participating medicaid providers in the area. The department shall

coordinate other services to maximize federal resources and the most cost-efficient delivery of services to extended foster care youth.

(e) The department shall allow a youth who has received extended foster care services, but lost his or her eligibility, to reenter the extended foster care program an unlimited number of times through a voluntary placement agreement when he or she meets the eligibility criteria again.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order. The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200, 43.185C.295, 74.13.035, and 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained ~~((twenty-one))~~ twenty-three years of age, who are or have been in ~~((foster))~~ the department's care and custody, or who are or were nonminor dependents.

(17) The department shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services

for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

(19)(a) The department shall have the authority to purchase legal representation for parents or kinship caregivers, or both, of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan under RCW 13.34.155 or chapter 26.09 or 26.26 RCW or secure orders establishing other relevant civil legal relationships authorized by law, when it is necessary for the child's safety, permanence, or well-being. The department's purchase of legal representation for kinship caregivers must be within the department's appropriations. This subsection does not create an entitlement to legal representation purchased by the department and does not create judicial authority to order the department to purchase legal representation for a parent or kinship caregiver. Such determinations are solely within the department's discretion. The term "kinship caregiver" as used in this section means a caregiver who meets the definition of "kin" in RCW 74.13.600(1), unless the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903. For an Indian child as defined in RCW 13.38.040 and 25 U.S.C. Sec. 1903, the term "kinship caregiver" as used in this section means a caregiver who is an "extended family member" as defined in RCW 13.38.040(8).

(b) The department is encouraged to work with the office of public defense parent representation program and the office of civil legal aid to develop a cost-effective system for providing effective civil legal representation for parents and kinship caregivers if it exercises its authority under this subsection.

**Sec. 9.** RCW 74.14C.020 and 1996 c 240 s 3 are each amended to read as follows:

(1) Intensive family preservation services shall have all of the following characteristics:

(a) Services are provided by specially trained service providers who have received at least forty hours of training from recognized intensive in-home services experts. Service providers deliver the services in the family's home, and other environments of the family, such as their neighborhood or schools;

(b) Caseload size averages two families per service provider unless paraprofessional services are utilized, in which case a provider may, but is not required to, handle an average caseload of five families;

(c) The services to the family are provided by a single service provider who may be assisted by paraprofessional workers, with backup providers identified to provide assistance as necessary;

(d) Services are available to the family within twenty-four hours following receipt of a referral to the program; and

(e) Except as provided in subsection (4) of this section, duration of service is limited to a maximum of forty days, unless paraprofessional workers are used, in which case the duration of services is limited to a maximum of ninety days. The department may authorize an additional provision of service through an exception to policy when the department and provider agree that additional services are needed.

(2) Family preservation services shall have all of the following characteristics:

(a) Services are delivered primarily in the family home or community;

(b) Services are committed to reinforcing the strengths of the family and its members and empowering the family to solve problems and become self-sufficient;

(c) Services are committed to providing support to families through community organizations including but not limited to school, church, cultural, ethnic, neighborhood, and business;

(d) Services are available to the family within forty-eight hours of referral unless an exception is noted in the file;

(e) Except as provided in subsection (4) of this section, duration of service is limited to a maximum of six months, unless the department requires additional follow-up on an individual case basis; ((and))

(f) Caseload size no more than ten families per service provider, which can be adjusted when paraprofessional workers are used or required by the department; and

(g) Support and retain foster families so they can provide quality family based settings for children in foster care.

(3) Preservation services shall include the following characteristics:

(a) Services protect the child and strengthen the family;

(b) Service providers have the authority and discretion to spend funds, up to a maximum amount specified by the department, to help families obtain necessary food, shelter, or clothing, or to purchase other goods or services that will enhance the effectiveness of intervention;

(c) Services are available to the family twenty-four hours a day and seven days a week;

(d) Services enhance parenting skills, family and personal self-sufficiency, functioning of the family, and reduce stress on families; and

(e) Services help families locate and use additional assistance including, but not limited to, the development and maintenance of community support systems, counseling and treatment services, housing, child care, education, job training, emergency cash grants, state and federally funded public assistance, and other basic support services.

(4) The department may offer or provide family preservation services or preservation services to families as remedial services pursuant to proceedings brought under chapter 13.34 RCW. If the department elects to do so, these services are not considered remedial services as defined in chapter 13.34 RCW.



and the department may extend the duration of such services for a period of up to fifteen months following the return home of a child under chapter 13.34 RCW. The purpose for extending the duration of these services is to, whenever possible, facilitate safe and timely reunification of the family and to ensure the strength and stability of the reunification.

**Sec. 10.** RCW 74.15.020 and 2018 c 284 s 67 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 74.13.031 unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers, or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 43.185C.295 through 43.185C.310;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis. "Group care facility" includes but is not limited to:

(i) Qualified residential treatment programs as defined in RCW 13.34.030;

(ii) Facilities specializing in providing prenatal, post-partum, or parenting supports for youth; and

(iii) Facilities providing high-quality residential care and supportive services to children who are, or who are at risk of becoming, victims of sex trafficking;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, excluding Saturdays, Sundays, and holidays to children who have been removed from their parent's or guardian's care by child protective services or law enforcement;

(j) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(k) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection (2), even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), (iii), or (iv) of this subsection (2), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or

second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration services, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and assisted living facilities licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(o) A host home program, and host home, operated by a tax exempt organization for youth not in the care of or receiving services from the department, if that program: (i) Recruits and screens potential homes in the program, including performing background checks on individuals over the age of eighteen residing in the home through the Washington state patrol or equivalent law enforcement agency and performing physical inspections of the home; (ii) screens and provides case management services to youth in the program; (iii) obtains a notarized permission slip or limited power of attorney from the parent or legal guardian of the youth authorizing the youth to

participate in the program and the authorization is updated every six months when a youth remains in a host home longer than six months; (iv) obtains insurance for the program through an insurance provider authorized under Title 48 RCW; (v) provides mandatory reporter and confidentiality training; and (vi) registers with the secretary of state as provided in RCW 24.03.550. A host home is a private home that volunteers to host youth in need of temporary placement that is associated with a host home program. Any host home program that receives local, state, or government funding shall report the following information to the office of homeless youth prevention and protection programs annually by December 1st of each year: The number of children the program served, why the child was placed with a host home, and where the child went after leaving the host home, including but not limited to returning to the parents, running away, reaching the age of majority, or becoming a dependent of the state. A host home program shall not receive more than one hundred thousand dollars per year of public funding, including local, state, and federal funding. A host home shall not receive any local, state, or government funding.

(3) "Department" means the department of children, youth, and families.

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of the department.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and

training administration programs including the workforce innovation and opportunity act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

**Sec. 11.** RCW 13.34.065 and 2018 c 284 s 4 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, the department shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make

an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. If such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the department's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under section 3 of this act and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(g) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 12.** RCW 13.34.130 and 2018 c 284 s 10 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held



pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or agency responsible for supervision of the child's placement. If the court orders that the child be placed with a caregiver over the objections of the parent or the department, the court shall articulate, on the record, his or her reasons for ordering the placement. The court may not order an Indian child, as defined in RCW 13.38.040, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department to be competent to provide care for the child.

(2) Absent good cause, the department shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

(3) The department may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

(4) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under section 3 of this act and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(5) When placing an Indian child in out-of-home care, the department shall follow the placement preference characteristics in RCW 13.38.180.

~~((5))~~ (6) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that ~~((preventive))~~ prevention services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

~~((6))~~ (7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a stepbrother or stepsister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the stepsibling.

~~((7))~~ (8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain

in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~((8))~~ (9) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((9))~~ (10) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 13.** RCW 13.34.138 and 2018 c 284 s 14 are each amended to read as follows:

(1) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Within sixty days of the placement of a child in a qualified residential treatment program as defined in this chapter, and at each review hearing thereafter if the child remains in such a program, the following:

(A) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(B) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(C) Whether the placement is consistent with the child's permanency plan;

(D) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(E) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home.

(vii) Whether a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child by preventing the return of the child to the home of the child's parent and whether housing assistance should be provided by the department;

~~((viii))~~ (viii) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

~~((viii))~~ (ix) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

~~((ix))~~ (x) Whether both in-state and, where appropriate, out-of-state placements have been considered;

~~((x))~~ (xi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

~~((xi))~~ (xii) Whether terms of visitation need to be modified;

~~((xii))~~ (xiii) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

~~((xiii))~~ (xiv) Whether any additional court orders need to be made to move the case toward permanency; and

~~((xiv))~~ (xv) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with the department's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the

court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's authority to order housing assistance under this chapter is: (a) Limited to cases in which a parent's homelessness or lack of suitable housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in providing an appropriate home for the child; and (b) subject to the availability of funds appropriated for this specific purpose. Nothing in this chapter shall be construed to create an entitlement to housing assistance nor to create judicial authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(6).

**NEW SECTION. Sec. 14.** A new section is added to chapter 13.34 RCW to read as follows:

If a child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(1) Consider the assessment required under section 3 of this act and submitted as part of the department's social study, and any related documentation;

(2) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(3) Approve or disapprove the child's placement in the qualified residential treatment program.

**Sec. 15.** RCW 13.34.145 and 2018 c 284 s 15 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age seventeen years but not older than seventeen years and six months, the department shall provide the youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age eighteen years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. The court shall find, as of the date of the hearing, that the child's placement and plan of care is the best permanency plan for the child and provide compelling reasons why it continues to not be in the child's best interest to (i) return home; (ii) be placed for adoption; (iii) be placed with a legal guardian; or (iv) be placed with a fit and willing relative. If the child is present at the hearing, the court should ask the child about his or her desired permanency outcome.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home

visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

- (A) Being returned safely to his or her home;
- (B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;
- (C) Being placed for adoption;
- (D) Being placed with a guardian;
- (E) Being placed in the home of a fit and willing relative of the child; or
- (F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(c) Regardless of whether the primary permanency planning goal has been achieved, for a child who remains placed in a qualified residential treatment program as defined in this chapter for at least sixty days, and remains placed there at subsequent permanency planning hearings, the court shall establish in writing:

(i) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(ii) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(iii) Whether the placement is consistent with the child's short and long-term goals as stated in the child's permanency plan;

(iv) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(v) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home.

(5) Following this inquiry, at the permanency planning hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

(a) For purposes of this subsection, "good cause exception" includes but is not limited to the following:

(i) The child is being cared for by a relative;

(ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

(iii) The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests;

(iv) The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;



(v) Where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual diagnoses treatment program and is demonstrating compliance with treatment goals; or

(vi) Where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home.

(b) The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

(i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

(ii) The parent's efforts to communicate and work with the department or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship;

(iii) A positive response by the parent to the reasonable efforts of the department;

(iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

(v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

(vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

(c) The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing court-mandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)(h) for a parent's failure to complete available treatment.

(6)(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(c) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(7) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(b) If the department is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(8) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the department to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(10) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(11) If the court orders the child returned home, casework supervision by the department shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(12) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(13) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (12) of this section are met.

(14) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(15) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the department of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(16) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**NEW SECTION. Sec. 16.** A new section is added to chapter 26.44 RCW to read as follows:

Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in chapters 13.34 and 74.13 RCW, respectively.

**NEW SECTION. Sec. 17.** A new section is added to chapter 13.34 RCW to read as follows:

Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in this chapter and chapter 74.13 RCW, respectively.

**NEW SECTION. Sec. 18.** A new section is added to chapter 74.13 RCW to read as follows:

Nothing in this chapter may be construed to limit the department's authority to offer or provide prevention services or primary prevention services as defined in chapter 13.34 RCW and this chapter, respectively.

**NEW SECTION. Sec. 19.** Sections 3, 4, and 10 through 15 of this act take effect October 1, 2019.

Passed by the House April 18, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 173

[House Bill 1901]

### SAFETY BELTS--EXEMPTION FOR COMMERCIAL MOTOR VEHICLES

AN ACT Relating to exemptions from the use of safety belts; and reenacting and amending RCW 46.61.688.

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

**Sec. 1.** RCW 46.61.688 and 2009 c 275 s 8 are each reenacted and amended to read as follows:

(1) For the purposes of this section, "motor vehicle" includes:

(a) "Buses," meaning motor vehicles with motive power, except trailers, designed to carry more than ten passengers;

(b) "Medium-speed electric vehicle" meaning a self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one mile is more than thirty miles per

hour but not more than thirty-five miles per hour and otherwise meets or exceeds the federal regulations set forth in 49 C.F.R. Sec. 571.500;

(c) "Motorcycle," meaning a three-wheeled motor vehicle that is designed (i) so that the driver rides on a seat in a partially or completely enclosed seating area that is equipped with safety belts and (ii) to be steered with a steering wheel;

(d) "Multipurpose passenger vehicles," meaning motor vehicles with motive power, except trailers, designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road operation;

(e) "Neighborhood electric vehicle," meaning a self-propelled, electrically powered four-wheeled motor vehicle whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour and conforms to federal regulations under 49 C.F.R. Sec. 571.500;

(f) "Passenger cars," meaning motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying ten passengers or less; and

(g) "Trucks," meaning motor vehicles with motive power, except trailers, designed primarily for the transportation of property.

(2)(a) This section only applies to:

(i) Motor vehicles that meet the manual seat belt safety standards as set forth in 49 C.F.R. Sec. 571.208;

(ii) Motorcycles, when equipped with safety belts that meet the standards set forth in 49 C.F.R. Part 571; and

(iii) Neighborhood electric vehicles and medium-speed electric vehicles that meet the seat belt standards as set forth in 49 C.F.R. Sec. 571.500.

(b) This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required under 49 C.F.R. Part 571 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

(4) No person may operate a motor vehicle unless all child passengers under the age of sixteen years are either: (a) Wearing a safety belt assembly or (b) are securely fastened into an approved child restraint device.

(5) A person violating this section shall be issued a notice of traffic infraction under chapter 46.63 RCW. A finding that a person has committed a traffic infraction under this section shall be contained in the driver's abstract but shall not be available to insurance companies or employers.

(6) Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

(7) This section does not apply to an operator or passenger, except for an operator or passenger operating a commercial motor vehicle as defined in RCW 46.32.005, who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

(8) The state patrol may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts.

Passed by the House March 6, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 174

[Substitute House Bill 1919]

### ANIMAL FIGHTING AND CRUELTY

AN ACT Relating to preventing and responding to animal abuse; amending RCW 16.52.117, 16.52.207, and 16.52.011; and prescribing penalties.

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

**Sec. 1.** RCW 16.52.117 and 2015 c 235 s 3 are each amended to read as follows:

(1) A person commits the crime of animal fighting if the person knowingly does any of the following or causes a minor to do any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) Promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; ~~((e))~~

(e) ~~Steals, takes, leads away, possesses, confines, sells, transfers, or receives an animal with the intent of using the animal for animal fighting, or for training or baiting for the purpose of animal fighting; or~~

~~(f) Owns, possesses, buys, sells, transfers, or manufactures animal fighting paraphernalia for the purpose of engaging in, promoting, or facilitating animal fighting, or for baiting a live animal for the purpose of animal fighting.~~

~~(2)(a) Except as provided in (b) of this subsection, a person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021;~~

~~(b) A person who intentionally mutilates an animal in furtherance of an animal fighting offense as described in subsection (1) of this section is guilty of a class B felony punishable under RCW 9A.20.021.~~

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal fighting paraphernalia" includes equipment, products, implements, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to: Cat mills; fighting pits; springpoles; unprescribed veterinary medicine; treatment supplies; and gaffs, slashers, heels, and any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

**Sec. 2.** RCW 16.52.207 and 2011 c 172 s 5 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty~~(5)~~;

(a) The person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or

(b) The person takes control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117 and knowingly, recklessly, or with criminal negligence abandons the animal, and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;

(b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or

(c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

(3) Animal cruelty in the second degree is a gross misdemeanor.

(4) In any prosecution of animal cruelty in the second degree under subsection (1)(a) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

**Sec. 3.** RCW 16.52.011 and 2017 c 65 s 2 are each amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

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

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner, or by a person who has taken control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117, or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (h) of this subsection and RCW 16.52.025.

(e) "Dog" means an animal of the species *Canis lupus familiaris*.

(f) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(g) "Food" means food or feed appropriate to the species for which it is intended.

(h) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(i) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(j) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

(k) "Malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against animals.

(l) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age, species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(m) "Necessary shelter" means a structure sufficient to protect a dog from wind, rain, snow, cold, heat, or sun that has bedding to permit a dog to remain dry and reasonably clean and maintain a normal body temperature.

(n) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(o) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(p) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(q) "Similar animal" means: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

(r) "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

(s) "Tether" means: (i) To restrain an animal by tying or securing the animal to any object or structure; and (ii) a device including, but not limited to, a chain, rope, cable, cord, tie-out, pulley, or trolley system for restraining an animal.

Passed by the House April 18, 2019.

Passed by the Senate March 29, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 175

[Substitute House Bill 1953]

### SNO-PARK PERMITS

AN ACT Relating to reducing the amount of permits required for recreation at a sno-park; amending RCW 79A.80.060 and 79A.80.010; and creating a new section.

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

**NEW SECTION. Sec. 1.** In 2016, the legislature directed state parks to develop options and recommendations to improve the consistency, equity, and simplicity in recreational access fee systems. This process identified the layering of park permit requirements that apply to sno-parks, and so the legislature intends to address this issue.

**Sec. 2.** RCW 79A.80.060 and 2011 c 320 s 7 are each amended to read as follows:

The discover pass or the day-use permit are not required, for persons who have a valid sno-park ((seasonal)) permit issued by the state parks and recreation commission, at designated sno-parks between November 1st through March 31st.

**Sec. 3.** RCW 79A.80.010 and 2013 2nd sp.s. c 23 s 22 are each amended to read as follows:

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

(1) "Agency" or "agencies" means the department of fish and wildlife, the department of natural resources, and the parks and recreation commission.

(2) "Annual natural investment permit" means the annual permit issued by the parks and recreation commission for the purpose of launching boats from the designated state parks boat launch sites.

(3) "Camper registration" means proof of payment of a camping fee on recreational lands managed by the parks and recreation commission.

(4) "Day-use permit" means the permit created in RCW 79A.80.030.

(5) "Discover pass" means the annual pass created in RCW 79A.80.020.

(6) "Motor vehicle" has the same meaning as defined in RCW 46.04.320 and which are required to be registered under chapter 46.16A RCW. "Motor vehicle" does not include those motor vehicles exempt from registration under RCW 46.16A.080, wheeled all-terrain vehicles registered for use under RCW 46.09.442, and state and publicly owned motor vehicles as provided in RCW 46.16A.170.

(7) "Recreation site or lands" means a state park, state lands and state forestlands as those terms are defined in RCW 79.02.010, natural resources conservation areas as that term is defined in RCW 79.71.030, natural area



preserves as that term is defined in RCW 79.70.020, and fish and wildlife conservation sites including water access areas, boat ramps, wildlife areas, parking areas, roads, and trailheads.

(8) "Sno-park ((seasonal)) permit" means the ((seasonal)) permit issued by the parks and recreation commission for providing access to winter recreational facilities for the period of November 1st through March 31st.

(9) "Vehicle access pass" means the pass created in RCW 79A.80.040.

Passed by the House April 18, 2019.

Passed by the Senate April 11, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 176

[Second Substitute House Bill 1973]

### DUAL ENROLLMENT SCHOLARSHIP PILOT PROGRAM

AN ACT Relating to establishing the Washington dual enrollment scholarship pilot program; amending RCW 28A.600.310; adding a new section to chapter 28B.76 RCW; and adding new sections to chapter 43.131 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The legislature recognizes that dual credit programs reduce both the cost and time of attendance to obtain a postsecondary degree. The legislature intends to reduce barriers and increase access to postsecondary educational opportunities for low-income students by removing the financial barriers for dual enrollment programs for students.

(2) The office, in consultation with the institutions of higher education and the office of the superintendent of public instruction, shall create the Washington dual enrollment scholarship pilot program. The office shall administer the Washington dual enrollment scholarship pilot program and may adopt rules as necessary.

(3) Eligible students are those who meet the following requirements:

(a) Qualify for the free or reduced-price lunch program;

(b) Are enrolled in one or more dual credit programs, as defined in RCW 28B.15.821, such as college in the high school and running start; and

(c) Have at least a 2.0 grade point average.

(4) Subject to availability of amounts appropriated for this specific purpose, beginning with the 2019-20 academic year, the office may award scholarships to eligible students. The scholarship award must be as follows:

(a) For eligible students enrolled in running start:

(i) Mandatory fees, as defined in RCW 28A.600.310(2), prorated based on credit load;

(ii) Course fees or laboratory fees as determined appropriate by college or university policies to pay for specified course related costs; and

(iii) A textbook voucher to be used at the institution of higher education's bookstore where the student is enrolled. For every credit per quarter the student

is enrolled, the student shall receive a textbook voucher for ten dollars, up to a maximum of fifteen credits per quarter, or the equivalent, per year.

(b) An eligible student enrolled in a college in the high school program may receive a scholarship for tuition fees as set forth under RCW 28A.600.290(5)(a).

(5) The Washington dual enrollment scholarship pilot program must apply after the fee waivers for low-income students under RCW 28A.600.310 and subsidies under RCW 28A.600.290 are provided for.

**Sec. 2.** RCW 28A.600.310 and 2015 c 202 s 4 are each amended to read as follows:

(1)(a) Eleventh and twelfth grade students or students who have not yet received the credits required for the award of a high school diploma and are eligible to be in the eleventh or twelfth grades may apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education.

(b) The course sections and programs offered as running start courses must also be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students offered at a high school campus.

(c) A student receiving home-based instruction enrolling in a public high school for the sole purpose of participating in courses or programs offered by institutions of higher education shall not be counted by the school district in any required state or federal accountability reporting if the student's parents or guardians filed a declaration of intent to provide home-based instruction and the student received home-based instruction during the school year before the school year in which the student intends to participate in courses or programs offered by the institution of higher education. Students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW shall not be required to meet the student learning goals, obtain a certificate of academic achievement or a certificate of individual achievement to graduate from high school, or to master the essential academic learning requirements. However, students are eligible to enroll in courses or programs in participating universities only if the board of directors of the student's school district has decided to participate in the program. Participating institutions of higher education, in consultation with school districts, may establish admission standards for these students. If the institution of higher education accepts a secondary school pupil for enrollment under this section, the institution of higher education shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2)(a) In lieu of tuition and fees, as defined in RCW 28B.15.020 and 28B.15.041:

(i) Running start students shall pay to the community or technical college all other mandatory fees as established by each community or technical college and, in addition, the state board for community and technical colleges may authorize a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041; and

(ii) All other institutions of higher education operating a running start program may charge running start students a fee of up to ten percent of tuition

and fees as defined in RCW 28B.15.020 and 28B.15.041 in addition to technology fees.

(b) The fees charged under this subsection (2) shall be prorated based on credit load.

(c) Students may pay fees under this subsection with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

(3)(a) The institutions of higher education must make available fee waivers for low-income running start students. ~~((Each institution must establish a written policy for the determination of low-income students before offering the fee waiver.))~~ A student shall be considered low income and eligible for a fee waiver upon proof that the student is currently qualified to receive free or reduced-price lunch. Acceptable documentation of low-income status may also include, but is not limited to, documentation that a student has been deemed eligible for free or reduced-price lunches in the last five years, or other criteria established in the institution's policy.

(b)(i) By the beginning of the 2020-21 school year, school districts, upon knowledge of a low-income student's enrollment in running start, must provide documentation of the student's low-income status, under (a) of this subsection, directly to institutions of higher education.

(ii) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction, in consultation with the Washington student achievement council, shall develop a centralized process for school districts to provide students' low-income status to institutions of higher education to meet the requirements of (b)(i) of this subsection.

(c) Institutions of higher education, in collaboration with relevant student associations, shall aim to have students who can benefit from fee waivers take advantage of these waivers. Institutions shall make every effort to communicate to students and their families the benefits of the waivers and provide assistance to students and their families on how to apply. Information about waivers shall, to the greatest extent possible, be incorporated into financial aid counseling, admission information, and individual billing statements. Institutions also shall, to the greatest extent possible, use all means of communication, including but not limited to web sites, online catalogues, admission and registration forms, mass email messaging, social media, and outside marketing to ensure that information about waivers is visible, compelling, and reaches the maximum number of students and families that can benefit.

(4) The pupil's school district shall transmit to the institution of higher education an amount per each full-time equivalent college student at statewide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated statewide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction, participating institutions of higher education, and the state board for community and technical colleges shall

consult on the calculation and distribution of the funds. The funds received by the institution of higher education from the school district shall not be deemed tuition or operating fees and may be retained by the institution of higher education. A student enrolled under this subsection shall be counted for the purpose of meeting enrollment targets in accordance with terms and conditions specified in the omnibus appropriations act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.131 RCW to read as follows:

The Washington dual enrollment scholarship pilot program is terminated July 1, 2025, as provided in section 4 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2026:

Section 1 of this act.

Passed by the House April 18, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

**CHAPTER 177**

[Engrossed House Bill 1996]

**SAN JUAN ISLAND LICENSE PLATES**

AN ACT Relating to creating a San Juan Islands special license plate; amending RCW 46.18.200, 46.17.220, and 46.68.420; adding a new section to chapter 46.04 RCW; and providing an effective date.

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

**Sec. 1.** RCW 46.18.200 and 2018 c 67 s 5 are each amended to read as follows:

(1) Special license plate series reviewed and approved by the department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the department.

(2) The department approves and shall issue the following special license plates:

LICENSE PLATE	DESCRIPTION, SYMBOL, OR ARTWORK
4-H	Displays the "4-H" logo.

Armed forces collection	Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard.
Breast cancer awareness	Displays a pink ribbon symbolizing breast cancer awareness.
Endangered wildlife	Displays a symbol or artwork symbolizing endangered wildlife in Washington state.
Fred Hutch	Displays the Fred Hutch logo.
Gonzaga University alumni association	Recognizes the Gonzaga University alumni association.
Helping kids speak	Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.
Keep kids safe	Recognizes efforts to prevent child abuse and neglect.
Law enforcement memorial	Honors law enforcement officers in Washington killed in the line of duty.
Music matters	Displays the "Music Matters" logo.
Professional firefighters and paramedics	Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.
<u>San Juan Islands</u>	<u>Displays a symbol or artwork recognizing the San Juan Islands.</u>
Seattle Mariners	Displays the "Seattle Mariners" logo.
Seattle Seahawks	Displays the "Seattle Seahawks" logo.
Seattle Sounders FC	Displays the "Seattle Sounders FC" logo.
Seattle University	Recognizes Seattle University.
Share the road	Recognizes an organization that promotes bicycle safety and awareness education.
Ski & ride Washington	Recognizes the Washington snowsports industry.
State flower	Recognizes the Washington state flower.
Volunteer firefighters	Recognizes volunteer firefighters.

Washington farmers and ranchers	Recognizes farmers and ranchers in Washington state.
Washington lighthouses	Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.
Washington state aviation	Displays a Stearman biplane in the foreground with an image of Mount Rainier in the background.
Washington state parks	Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.
Washington state wrestling	Promotes and supports college wrestling in the state of Washington.
Washington tennis	Builds awareness and year-round opportunities for tennis in Washington state. Displays a symbol or artwork recognizing tennis in Washington state.
Washington's fish collection	Recognizes Washington's fish.
Washington's national park fund	Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.
Washington's wildlife collection	Recognizes Washington's wildlife.
We love our pets	Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.
Wild on Washington	Symbolizes wildlife viewing in Washington state.

(3) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof of eligibility by providing a certificate of current membership from the Washington state council of firefighters.

(4) Applicants for initial volunteer firefighters special license plates must (a) have been a volunteer firefighter for at least ten years or be a volunteer firefighter for one or more years and (b) have documentation of service from the district of the appropriate fire service. If the volunteer firefighter leaves

firefighting service before ten years of service have been completed, the volunteer firefighter shall surrender the license plates to the department on the registration renewal date. If the volunteer firefighter stays in service for at least ten years and then leaves, the license plate may be retained by the former volunteer firefighter and as long as the license plate is retained for use the person will continue to pay the future registration renewals. A qualifying volunteer firefighter may have no more than one set of license plates per vehicle, and a maximum of two sets per applicant, for their personal vehicles. If the volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

**Sec. 2.** RCW 46.17.220 and 2018 c 67 s 4 are each amended to read as follows:

In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

PLATE TYPE	INITIAL FEE	RENEWAL FEE	DISTRIBUTED UNDER
(1) 4-H	\$ 40.00	\$ 30.00	RCW 46.68.420
(2) Amateur radio license	\$ 5.00	N/A	RCW 46.68.070
(3) Armed forces	\$ 40.00	\$ 30.00	RCW 46.68.425
(4) Breast cancer awareness	\$ 40.00	\$ 30.00	RCW 46.68.425
(5) Collector vehicle	\$ 35.00	N/A	RCW 46.68.030
(6) Collegiate	\$ 40.00	\$ 30.00	RCW 46.68.430
(7) Endangered wildlife	\$ 40.00	\$ 30.00	RCW 46.68.425
(8) Fred Hutch	\$ 40.00	\$ 30.00	RCW 46.68.420
(9) Gonzaga University alumni association	\$ 40.00	\$ 30.00	RCW 46.68.420
(10) Helping kids speak	\$ 40.00	\$ 30.00	RCW 46.68.420
(11) Horseless carriage	\$ 35.00	N/A	RCW 46.68.030
(12) Keep kids safe	\$ 45.00	\$ 30.00	RCW 46.68.425
(13) Law enforcement memorial	\$ 40.00	\$ 30.00	RCW 46.68.420
(14) Military affiliate radio system	\$ 5.00	N/A	RCW 46.68.070
(15) Music matters	\$ 40.00	\$ 30.00	RCW 46.68.420
(16) Professional firefighters and paramedics	\$ 40.00	\$ 30.00	RCW 46.68.420
(17) Purple Heart	\$ 40.00	\$ 30.00	RCW 46.68.425
(18) Ride share	\$ 25.00	N/A	RCW 46.68.030
(19) <u>San Juan Islands</u>	<u>\$ 40.00</u>	<u>\$ 30.00</u>	<u>RCW 46.68.420</u>
<del>((20))</del> (21) Seattle Mariners	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((20))</del> (21) Seattle Seahawks	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((21))</del> (22) Seattle Sounders FC	\$ 40.00	\$ 30.00	RCW 46.68.420

<del>((22))</del> (23) Seattle University	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((23))</del> (24) Share the road	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((24))</del> (25) Ski & ride Washington	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((25))</del> (26) Square dancer	\$ 40.00	N/A	RCW 46.68.070
<del>((26))</del> (27) State flower	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((27))</del> (28) Volunteer firefighters	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((28))</del> (29) Washington farmers and ranchers	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((29))</del> (30) Washington lighthouses	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((30))</del> (31) Washington state aviation	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((31))</del> (32) Washington state parks	\$ 40.00	\$ 30.00	RCW 46.68.425
<del>((32))</del> (33) Washington state wrestling	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((33))</del> (34) Washington tennis	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((34))</del> (35) Washington's fish collection	\$ 40.00	\$ 30.00	RCW 46.68.425
<del>((35))</del> (36) Washington's national parks	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((36))</del> (37) Washington's wildlife collection	\$ 40.00	\$ 30.00	RCW 46.68.425
<del>((37))</del> (38) We love our pets	\$ 40.00	\$ 30.00	RCW 46.68.420
<del>((38))</del> (39) Wild on Washington	\$ 40.00	\$ 30.00	RCW 46.68.425

**Sec. 3.** RCW 46.68.420 and 2018 c 67 s 2 are each amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220;

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

ACCOUNT

CONDITIONS FOR USE OF FUNDS



4-H programs	Support Washington 4-H programs
Fred Hutch	Support cancer research at the Fred Hutchinson cancer research center
Gonzaga University alumni association	Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University
Helping kids speak	Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development
Law enforcement memorial	Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers
Lighthouse environmental programs	Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents
Music matters awareness	Promote music education in schools throughout Washington
<u>San Juan Islands programs</u>	<u>Provide funds to the Madrona institute</u>
Seattle Mariners	Provide funds to the sports mentoring program and to support the Washington world fellows program in the following manner: (a) Seventy-five percent to the office of the lieutenant governor solely to administer the sports mentoring program established under RCW 43.15.100, to encourage youth who have economic needs or face adversities to experience spectator sports or get involved in youth sports, and (b) up to twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, an equity focused program

Seattle Seahawks	Provide funds to InvestED and to support the Washington world fellows program in the following manner: (a) Seventy-five percent, to InvestED, to encourage secondary students who have economic needs to stay in school, return to school, or get involved within their learning community; and (b) twenty-five percent to the office of the lieutenant governor solely to administer the Washington world fellows program, including the provision of fellowships
Seattle Sounders FC	Provide funds to Washington state mentors and the association of Washington generals created in RCW 43.15.030 in the following manner: (a) Seventy percent and the remaining proceeds, if any, to Washington state mentors, to increase the number of mentors in the state by offering mentoring grants throughout Washington state that foster positive youth development and academic success, with up to twenty percent of these proceeds authorized for program administration costs; and (b) up to thirty percent, not to exceed forty-thousand dollars annually as adjusted for inflation by the office of financial management, to the association of Washington generals, to develop Washington state educational, veterans, international relations, and civics projects and to recognize the outstanding public service of individuals or groups in the state of Washington
Seattle University	Fund scholarships for students attending or planning to attend Seattle University
Share the road	Promote bicycle safety and awareness education in communities throughout Washington
Ski & ride Washington	Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs

State flower	Support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons
Volunteer firefighters	Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need
Washington farmers and ranchers	Provide funds to the Washington FFA Foundation for educational programs in Washington state
Washington state aviation	Provide funds to the department of transportation to support infrastructure improvements at public use airports in Washington state
Washington state council of firefighters benevolent fund	Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need
Washington state wrestling	Provide funds to the Washington state wrestling foundation to fund new and existing college wrestling programs
Washington tennis	Provide funds to cities to assist in the construction and maintenance of a public tennis facility with at least four indoor tennis courts. A city is eligible for construction funds if the city does not already have a public or private facility with at least four indoor tennis courts. Funds for construction must first be made available to the most populous eligible city, according to the most recent census, for a time period not to exceed five years after January 1, 2017. After the five-year time period, the funds for construction must be made available to the next most populous eligible city. Funds for the maintenance of a public tennis facility with at least four indoor tennis courts must first be made available to the first eligible city that utilizes funds for construction provided by chapter 16, Laws of 2016

Washington's national park fund	Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks
We love our pets	Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(3) Except as otherwise provided in this section, only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Except as otherwise provided in this section, funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) Funds from the Seattle Seahawks account may be provided to the lieutenant governor solely for the purpose of administering the Washington world fellows program. Of the amounts received by the lieutenant governor's office under this subsection, at least ninety percent must be provided as fellowships under the program.

(6) Beginning January 1, 2019, funds from the Seattle Mariners account may be provided to the office of lieutenant governor solely for the purpose of administering the sports mentoring program. Of the amounts received by the office of lieutenant governor, at least ninety percent must be applied towards services directly provided to youth participants.

(7) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

**NEW SECTION. Sec. 4.** A new section is added to chapter 46.04 RCW to read as follows:

"San Juan Islands license plates" means license plates issued under RCW 46.18.200 that display a symbol or artwork recognizing the San Juan Islands in Washington state.

**NEW SECTION. Sec. 5.** This act takes effect October 1, 2019.

Passed by the House April 18, 2019.

Passed by the Senate April 13, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 178

[Substitute Senate Bill 5010]

## ANNEXATION OF PROTECTED LANDS BY LOCAL FIRE DISTRICTS

AN ACT Relating to protected lands not being assessed local fire district levies; and creating a new section.

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

**NEW SECTION. Sec. 1.** (1) On September 13, 2017, the joint legislative audit and review committee distributed the 17-06 final report: Fees assessed for forest fire protection. The report identified more than twenty thousand parcels of land that do not pay the forest fire protection assessment or a local fire district levy but are likely still protected by the department of natural resources or a local fire district.

The legislature finds that fire protection services at the state and local level are vital to the preservation of public and personal property throughout the state. The legislature further finds that fire protection resources are very limited in carrying out the substantial duties that fire protection services are asked to perform. Therefore, properties that benefit from fire protection should be required to contribute to the operation and maintenance of such essential services.

(2)(a) A local fire district may propose to annex any parcel or parcels having all boundaries of the property wholly within the external boundary of the requesting local fire district if such parcel or parcels are not presently being assessed a local fire district levy.

(b) Prior to annexing a parcel or parcels under this section the local fire district must:

(i) Verify with the county assessor that the parcel or parcels have all boundaries of the property wholly within the external boundary of the requesting local fire district and are not presently assessed a local fire district levy;

(ii) Notify the owner of record of each parcel in writing no less than sixty days prior to conducting a public hearing that the local fire district is seeking to annex the parcel; and

(iii) Hold at least one public hearing on the proposed annexation.

(3) Following the hearing, the local fire district must determine by resolution whether any parcel will be annexed. After adoption of the resolution, the local fire district must send a copy to the county legislative authority, the county assessor, and the owner of record of any parcel proposed to be annexed. The resolution must include a list of all parcels proposed to be annexed.

(4) Within thirty days of notification of the resolution, the owner of record of a parcel proposed to be annexed may appeal the proposed annexation to the county legislative authority. Issues raised under appeal may include compliance with the process established under this section, whether the parcel is presently being assessed a local fire district levy, whether the levied amount is consistent with local fire district levy amounts, whether the local fire district actually has the resources to provide the parcel or parcels with timely service. The county legislative authority may address multiple appeals at the same hearing. The decision of the county legislative authority or its designee is not appealable.

(5) If the proposed annexation is upheld or no appeal is made within thirty days of notification of the resolution, the county legislative authority must

approve the proposed annexation of any parcel or parcels of land submitted under subsection (3) of this section into the local fire district. The order must include a description of the property to be annexed and the effective date of the annexation. The order is not subject to referendum.

(6) A notice of intention must be filed with the boundary review board created under RCW 36.93.030. However, the jurisdiction of the board may not be invoked as described in RCW 36.93.100 for annexations under this section.

(7) Any local fire district levy to be imposed on a parcel annexed in accordance with this section may not be assessed until the next tax assessment cycle following the annexation.

(8) Annexations of a parcel or parcels of land under this section must be initiated by January 1, 2021.

(9) For the purposes of this section, "local fire district" means a fire district, regional fire protection service authority, city, or town.

(10) The annexation process established under this section is not exclusive and does not limit annexation through other statutory authorities.

Passed by the Senate April 19, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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**CHAPTER 179**

[Substitute Senate Bill 5028]

**MONTH OF THE KINDERGARTNER**

AN ACT Relating to declaring September the month of the kindergartner; and adding a new section to chapter 28A.150 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.150 RCW to read as follows:

September is the month of the kindergartner. Each September elementary schools are encouraged to determine a method to celebrate new kindergartners as they begin their life in K-12 education.

Passed by the Senate February 26, 2019.

Passed by the House April 17, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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**CHAPTER 180**

[Senate Bill 5088]

**HIGH SCHOOL COMPUTER SCIENCE COURSES--AVAILABILITY--COMPETENCY TESTING**

AN ACT Relating to the awarding of credits for computer science; amending RCW 28A.230.100; adding a new section to chapter 28A.230 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature recognizes the benefit of computer science and computational thinking in education, not only with respect to educational development, but also in cultivating the skills needed to compete and excel in our state's career landscape. By providing more opportunities to take courses and earn credit in computer science, Washington can better prepare students to excel both in school and after graduation.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.230 RCW to read as follows:

(1) Beginning no later than the 2022-23 school year, each school district that operates a high school must, at a minimum, provide an opportunity to access an elective computer science course that is available to all high school students. School districts are encouraged to consider community-based or public-private partnerships in establishing and administering a course, but any course offered in accordance with this section must be aligned to the state learning standards for computer science or mathematics.

(2) In accordance with the requirements of this section, beginning in the 2019-20 school year, school districts may award academic credit for computer science to students based on student completion of a competency examination that is aligned with the state learning standards for computer science or mathematics and course equivalency requirements adopted by the office of the superintendent of public instruction to implement this section. Each school district board of directors in districts that award credit under this subsection shall develop a written policy for awarding such credit that includes:

- (a) A course equivalency approval procedure;
- (b) Procedures for awarding competency-based credit for skills learned partially or wholly outside of a course; and
- (c) An approval process for computer science courses taken before attending high school under RCW 28A.230.090 (4) and (5).

(3) Prior to the use of any competency examination under this section that may be used to award academic credit to students, the office of the superintendent of public instruction must review the examination to ensure its alignment with:

- (a) The state learning standards for computer science or mathematics; and
- (b) Course equivalency requirements adopted by the office of the superintendent of public instruction to implement this section.

**Sec. 3.** RCW 28A.230.100 and 2012 c 229 s 504 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the student achievement council, the state board for community and technical colleges, and the workforce training and education coordinating board, shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the superintendent shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW

28A.230.090, as determined by the high school or school district in accordance with RCW 28A.230.097.

(2) The rules (~~may~~) created under subsection (1) of this section must include provisions for:

(a) Competency testing in lieu of such courses required for graduation in RCW 28A.230.090 (~~(e)~~);

(b) Competency testing in lieu of electives, including computer science electives created under section 2 of this act, provided applicable state learning standards and equivalency requirements are met; and

(c) Demonstration of specific skill proficiency or understanding of concepts through work or experience.

Passed by the Senate April 19, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 181

[Engrossed Substitute Senate Bill 5127]

### TRAUMATIC BRAIN INJURY FEE

AN ACT Relating to increasing the traumatic brain injury fee; amending RCW 46.63.110, 74.31.060, and 74.31.020; and prescribing penalties.

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

**Sec. 1.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is five hundred dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44



RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation is imposed by a court under this chapter, it is immediately payable and is enforceable as a civil judgment under Title 6 RCW. If the court determines, in its discretion, that a person is not able to pay a monetary obligation in full, and not more than one year has passed since the later of July 1, 2005, or the date the monetary obligation initially became due and payable, the court shall enter into a payment plan with the person, unless the person has previously been granted a payment plan with respect to the same monetary obligation, or unless the person is in noncompliance of any existing or prior payment plan, in which case the court may, at its discretion, implement a payment plan. If the court has notified the department that the person has failed to pay or comply and the person has subsequently entered into a payment plan and made an initial payment, the court shall notify the department that the infraction has been adjudicated, and the department shall rescind any suspension of the person's driver's license or driver's privilege based on failure to respond to that infraction. "Payment plan," as used in this section, means a plan that requires reasonable payments based on the financial ability of the person to pay. The person may voluntarily pay an amount at any time in addition to the payments required under the payment plan.

(a) If a payment required to be made under the payment plan is delinquent or the person fails to complete a community restitution program on or before the time established under the payment plan, unless the court determines good cause therefor and adjusts the payment plan or the community restitution plan accordingly, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation for civil enforcement until all monetary obligations, including those imposed under subsections (3) and (4) of this section, have been paid, and court authorized community restitution has been completed, or until the court has entered into a new time payment or community restitution agreement with the person. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's failure to meet the conditions of the plan, and the department shall suspend the person's driver's license or driving privileges.

(b) If a person has not entered into a payment plan with the court and has not paid the monetary obligation in full on or before the time established for payment, the court may refer the unpaid monetary penalty, fee, cost, assessment, or other monetary obligation to a collections agency until all monetary obligations have been paid, including those imposed under subsections (3) and (4) of this section, or until the person has entered into a payment plan under this section. For those infractions subject to suspension under RCW 46.20.289, the court shall notify the department of the person's delinquency, and the department shall suspend the person's driver's license or driving privileges.

(c) If the payment plan is to be administered by the court, the court may assess the person a reasonable administrative fee to be wholly retained by the city or county with jurisdiction. The administrative fee shall not exceed ten dollars per infraction or twenty-five dollars per payment plan, whichever is less.

(d) Nothing in this section precludes a court from contracting with outside entities to administer its payment plan system. When outside entities are used for

the administration of a payment plan, the court may assess the person a reasonable fee for such administrative services, which fee may be calculated on a periodic, percentage, or other basis.

(e) If a court authorized community restitution program for offenders is available in the jurisdiction, the court may allow conversion of all or part of the monetary obligations due under this section to court authorized community restitution in lieu of time payments if the person is unable to make reasonable time payments.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed:

(a) A fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040;

(b) A fee of ten dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the Washington auto theft prevention authority account; and

(c) A fee of ~~((two))~~ five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the traumatic brain injury account established in RCW 74.31.060.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 or 46.61.212 shall be assessed an additional penalty of twenty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a court authorized community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the court authorized community restitution program.

(b) Eight dollars and fifty cents of the additional penalty under (a) of this subsection shall be remitted to the state treasurer. The remaining revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited in the state general fund. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

(9) If a legal proceeding, such as garnishment, has commenced to collect any delinquent amount owed by the person for any penalty imposed by the court under this section, the court may, at its discretion, enter into a payment plan.

(10) The monetary penalty for violating RCW 46.37.395 is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

**Sec. 2.** RCW 74.31.060 and 2011 c 143 s 6 are each amended to read as follows:

The traumatic brain injury account is created in the state treasury. (~~Two dollars of~~) The fee imposed under RCW 46.63.110(7)(c) must be deposited into the account. Moneys in the account may be spent only after appropriation, and may be used only to support the activities in the statewide traumatic brain injury comprehensive plan, to provide a public awareness campaign and services relating to traumatic brain injury under RCW 74.31.040 and 74.31.050, for information and referral services, and for costs of required department staff who are providing support for the council under RCW 74.31.020 and 74.31.030. The secretary of the department of social and health services has the authority to administer the funds. The department must make every effort to disburse the incremental revenue that is the result of the fee increased under RCW 46.63.110(7)(c) in a diverse manner to include rural areas of the state.

**Sec. 3.** RCW 74.31.020 and 2018 c 58 s 55 are each amended to read as follows:

(1) The Washington traumatic brain injury strategic partnership advisory council is established as an advisory council to the governor, the legislature, and the secretary of the department of social and health services.

(2) The council shall be composed of:

(a) The following members who shall be appointed by the governor:

(i) A representative from a Native American tribe located in Washington state;

(ii) ~~(A)~~ Two representatives from a nonprofit organization serving individuals with traumatic brain injury;

(iii) An individual with expertise in working with children with traumatic brain injuries;

(iv) A physician who has experience working with individuals with traumatic brain injuries;

(v) A neuropsychologist who has experience working with persons with traumatic brain injuries;

(vi) A social worker or clinical psychologist who has experience in working with persons who have sustained traumatic brain injuries;

(vii) A rehabilitation specialist, such as a speech pathologist, vocational rehabilitation counselor, occupational therapist, or physical therapist who has experience working with persons with traumatic brain injuries;

(viii) Two persons who are individuals with a traumatic brain injury;

(ix) Two persons who are family members of individuals with traumatic brain injuries; and

(x) Two members of the public who have experience with issues related to the causes of traumatic brain injuries; and

(b) The following agency members:

(i) The secretary or the secretary's designee, and representatives from the following: The division of behavioral health and recovery services, the aging and disability services administration, and the division of vocational rehabilitation;

(ii) The secretary of health or the secretary's designee;

(iii) The secretary of corrections or the secretary's designee;

(iv) The secretary of children, youth, and families or the secretary's designee;

(v) A representative of the department of commerce with expertise in housing;

(vi) A representative from the Washington state department of veterans affairs;

(vii) A representative from the national guard; and

(viii) The executive director of the Washington protection and advocacy system or the executive director's designee(~~;~~and

~~(ix) The executive director of the state brain injury association or the executive director's designee.~~

~~In the event that any of the state agencies designated in this subsection (2)(b) is renamed, reorganized, or eliminated, the director or secretary of the department that assumes the responsibilities of each renamed, reorganized, or eliminated agency shall designate a substitute representative).~~

(3) Councilmembers shall not be compensated for serving on the council, but may be reimbursed for all reasonable expenses related to costs incurred in participating in meetings for the council.

(4) No member may serve more than two consecutive terms.

(5) The appointed members of the council shall, to the extent possible, represent rural and urban areas of the state.

(6) A chairperson shall be elected every two years by majority vote from among the councilmembers. The chairperson shall act as the presiding officer of the council.

(7) The duties of the council include:

(a) Collaborating with the department to develop and revise as needed a comprehensive statewide plan to address the needs of individuals with traumatic brain injuries;

(b) Providing recommendations to the department on criteria to be used to select programs facilitating support groups for individuals with traumatic brain injuries and their families under RCW 74.31.050;

(c) By January 15, 2013, and every two years thereafter, developing a report in collaboration with the department and submitting it to the legislature and the governor on the following:

(i) Identifying the activities of the council in the implementation of the comprehensive statewide plan;

(ii) Recommendations for the revisions to the comprehensive statewide plan;

(iii) Recommendations for using the traumatic brain injury account established under RCW 74.31.060 to form strategic partnerships and to foster the development of services and supports for individuals impacted by traumatic brain injuries; and

(iv) Recommendations for a council staffing plan for council support under RCW 74.31.030.

(8) The council may utilize the advice or services of a nationally recognized expert, or other individuals as the council deems appropriate, to assist the council in carrying out its duties under this section.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 29, 2019.  
 Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 182

[Substitute Senate Bill 5166]

### REASONABLE RELIGIOUS ACCOMMODATIONS--POSTSECONDARY INSTITUTIONS

AN ACT Relating to providing religious accommodations for students at postsecondary educational institutions during exams or other requirements to successfully complete a program; amending RCW 28B.10.039; adding a new chapter to Title 28B RCW; and recodifying RCW 28B.10.039.

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

**Sec. 1.** RCW 28B.10.039 and 2014 c 168 s 4 are each amended to read as follows:

~~((Institutions of higher education))~~ (1) Postsecondary educational institutions must develop policies to accommodate student absences ~~((for up to two days per academic year.))~~ to allow students to take holidays for reasons of faith or conscience or for organized activities conducted under the auspices of a religious denomination, church, or religious organization, so that students' grades are not adversely impacted by the absences.

(2) The institution's policy must require faculty to reasonably accommodate students who, due to the observance of religious holidays, expect to be absent or endure a significant hardship during certain days of the course or program. "Reasonably accommodate" means coordinating with the student on scheduling examinations or other activities necessary for completion of the program and includes rescheduling examinations or activities or offering different times for examinations or activities.

(3) Any student seeking reasonable accommodations under this section must provide written notice to the faculty, within the first two weeks of the beginning of the course, of the specific dates the student requests accommodations regarding examinations or other activities.

(4) A postsecondary educational institution shall provide notice to students of its policy by publishing the policy on the institution's web site and including either the policy or a link to the policy in course or program syllabi. The notice to students must also include notification of the institution's grievance procedure.

(5) A postsecondary educational institution may not require a student to pay any fees for seeking reasonable accommodations under this section.

(6) For the purposes of this section, "postsecondary educational institution" means an institution of higher education as defined in RCW 28B.10.016, a degree-granting institution as defined in RCW 28B.85.010, a private vocational school as defined in RCW 28C.10.020, school as defined in RCW 18.16.020, and any entity offering academic credit for an apprenticeship program under RCW 49.04.150.

NEW SECTION. **Sec. 2.** RCW 28B.10.039 is recodified as a section in a new chapter in Title 28B RCW.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 183

[Engrossed Senate Bill 5210]

### HEARING INSTRUMENTS--NOTIFICATION TO USERS

AN ACT Relating to notification to purchasers of hearing instruments about uses and benefits of telecoil and bluetooth technology; adding a new section to chapter 18.35 RCW; adding a new section to chapter 43.20A RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature finds that approximately twenty percent of the population have hearing loss, including more than six hundred fifty thousand Washington state residents who have been diagnosed with hearing loss. The number is rising; the aging baby boomer generation is increasing age-related hearing loss exponentially, and hearing loss has increased among children and youth in the last decade. As these trends continue, telecoil technology has the potential to benefit more people, but only if consumers are made aware of the technology and its benefits.

The legislature finds that the federal Americans with disabilities act of 1990 was amended in 2010 to require assistive listening systems in places of public assembly, served by a public address system, to be hearing aid compatible. Currently, the telecoil is the only component within a consumer hearing instrument that enables this mandated compatibility. Without a telecoil-enabled hearing instrument a person cannot effectively access mandated assistive listening systems.

The legislature finds that bluetooth technology is evolving, but it is still generally not suited for long range transmission in a large venue like an auditorium. To date, hearing aid bluetooth technology does not meet compliance standards for assistive listening system requirements.

Therefore, the legislature intends to increase consumer awareness of benefits and uses of the different types of hearing instruments and technologies.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.35 RCW to read as follows:

(1) Any person who engages in fitting and dispensing of hearing instruments shall:

(a) Prior to initial fitting and purchase, notify a person seeking to purchase a hearing instrument, both orally and in writing, about the uses, benefits, and limitations of current hearing assistive technologies, as defined by the department of health in rule.

(b) Provide to each person who enters into an agreement to purchase a hearing instrument a receipt, which must be signed by the purchaser at the time of the purchase, containing language that verifies that prior to initial fitting and purchase the consumer was informed, both orally and in writing, about the uses, benefits, and limitations of current hearing assistive technologies, as defined by the department of health in rule.

(2) The department may adopt rules to create a standard receipt form that persons required to provide notice under this section may provide to purchasers, as required in subsection (1)(a) of this section.

(3) A person required to provide written notice in subsection (1) of this section may produce written materials, use materials produced by hearing instrument manufacturers or others, or use the materials created by the office of the deaf and hard of hearing, as required in section 3 of this act.

(4) This section may not be construed to create a private right of action or claim against any person engaging in the fitting and dispensing of hearing instruments.

(5) The department must adopt rules necessary to implement this section. The department may consider a number of factors in defining current hearing assistive technologies, but must consider whether hearing assistive technologies are compatible with assistive listening systems that are compliant with the Americans with disabilities act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.20A RCW to read as follows:

The office of the deaf and hard of hearing shall develop educational materials to be distributed by hearing aid dispensers, including audiologists, to persons with hearing loss that explains the uses, benefits, and limitations of current hearing assistive technologies as defined by the department of health in rule.

Passed by the Senate April 19, 2019.

Passed by the House April 10, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 184

[Substitute Senate Bill 5212]

### ADOPTION OF DOGS AND CATS--SCIENCE OR RESEARCH FACILITIES

AN ACT Relating to adoption of dogs and cats used for science or research purposes; adding a new section to chapter 18.92 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 18.92 RCW to read as follows:

(1) A higher education facility that receives public money, including tax exempt status, or a facility that provides research in collaboration with a higher education facility, that utilizes dogs or cats for scientific, educational, or research purposes, upon conclusion of a dog or cat's use for scientific, educational, or research purposes shall:

(a) Have the facility's attending veterinarian or designee assess the health of the dog or cat and determine if the dog or cat is suitable for adoption, consistent with guidelines promulgated by the American veterinary medical association; and

(b) Make reasonable efforts to offer the dog or cat for adoption, when the dog or cat is deemed suitable for adoption, through the facility's own adoption program or through an animal care and control agency or an animal rescue group

as defined in RCW 82.04.040. A facility that offers dogs or cats for adoption to an animal care and control agency or an animal rescue group under this section may enter into an agreement to facilitate adoptions.

(2) Nothing in this section shall:

(a) Create a duty upon an animal care and control agency or an animal rescue group to accept a dog or cat offered for adoption by a research facility; or

(b) Prohibit a facility from completing scientific research or educational use prior to making a suitability for adoption determination.

(3) A research facility that provides a dog or cat for adoption pursuant to this section is immune from any civil liability for acts or omissions relating to the adoption of a dog or cat pursuant to subsection (1) of this section, other than acts constituting willful or wanton misconduct.

NEW SECTION. Sec. 2. This act may be known and cited as the homes for animal heroes act.

Passed by the Senate April 19, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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**CHAPTER 185**

[Substitute Senate Bill 5218]

**MOBILE FOOD UNITS--REGULATORY APPROVAL**

AN ACT Relating to mobile food units; amending RCW 43.20.025 and 43.20.148; and adding a new section to chapter 43.20 RCW.

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

**Sec. 1.** RCW 43.20.025 and 2006 c 239 s 2 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commissions" means the Washington state commission on African-American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, and the governor's office of Indian affairs.

(2) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(3) "Council" means the governor's interagency coordinating council on health disparities, convened according to this chapter.

(4) "Department" means the department of health.

(5) "Health disparities" means the difference in incidence, prevalence, mortality, or burden of disease and other adverse health conditions, including lack of access to proven health care services that exists between specific population groups in Washington state.



(6) "Health impact review" means a review of a legislative or budgetary proposal completed according to the terms of this chapter that determines the extent to which the proposal improves or exacerbates health disparities.

(7) "Secretary" means the secretary of health, or the secretary's designee.

(8) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(9) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(10) "Social determinants of health" means those elements of social structure most closely shown to affect health and illness, including at a minimum, early learning, education, socioeconomic standing, safe housing, gender, incidence of violence, convenient and affordable access to safe opportunities for physical activity, healthy diet, and appropriate health care services.

(11) "State board" means the state board of health created under this chapter ~~((43.20 RCW))~~.

(12) "Commissary" means an approved food establishment where food is stored, prepared, portioned, or packaged for service elsewhere.

(13) "Mobile food unit" means a readily movable food establishment.

(14) "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment. The local board of health, acting through the local health officer, is the regulatory authority for the activity of a food establishment, except as otherwise provided by law.

(15) "Servicing area" means an operating base location to which a mobile food unit or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

**Sec. 2.** RCW 43.20.148 and 2018 c 167 s 1 are each amended to read as follows:

~~((1)) For purposes of this section, the following terms have the following meanings:~~

~~(a) "Commissary" means an approved food establishment where food is stored, prepared, portioned, or packaged for service elsewhere.~~

~~(b) "Mobile food unit" means a readily movable food establishment.~~

~~(c) "Servicing area" means an operating base location to which a mobile food unit or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.~~

~~(2))~~ The regulatory authority must approve a request for a mobile food unit to be exempt from state board of health or local health jurisdiction requirements to operate from an approved commissary or servicing area if:

~~((a))~~ (1) The mobile food unit contains all equipment and utensils needed for complete onboard preparation of an approved menu;

~~((b))~~ (2) The mobile food unit is protected from environmental contamination when not in use;

~~((c))~~ (3) The mobile food unit can maintain required food storage temperatures during storage, preparation, service, and transit;

~~((4))~~ (4) The mobile food unit has a dedicated handwashing sink to allow frequent handwashing at all times;

~~((5))~~ (5) The mobile food unit has adequate water capacity and warewashing facilities to clean all multiuse utensils used on the mobile ~~((food))~~ food unit at a frequency specified in state board of health rules;

~~((6))~~ (6) The mobile food unit is able to store tools onboard needed for cleaning and sanitizing;

~~((7))~~ (7) All food, water, and ice used on the mobile food unit is prepared onboard or otherwise obtained from approved sources;

~~((8))~~ (8) Wastewater and garbage will be sanitarily removed from the mobile food unit following an approved written plan or by a licensed service provider; and

~~((9))~~ (9) The local health officer approves the menu and plan of operations for the mobile food unit.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.20 RCW to read as follows:

(1) Beginning May 1, 2020, a regulatory authority must accept a completed and approved plan review of a mobile food unit from another regulatory authority if:

(a) The applicant has obtained a valid permit to operate the mobile food unit from another regulatory authority; and

(b) The applicant provides the following to the regulatory authority from which the applicant is seeking a permit:

(i) A copy of the current operating permit from the original regulatory authority;

(ii) A copy of the complete approved plan review from the original regulatory authority;

(iii) The most recent inspection report of the mobile food unit from the original regulatory authority that demonstrates compliance with food safety standards; and

(iv) Any commissary agreements that the applicant was required to maintain under the permit from the original regulatory authority.

(2) Except as provided in (a) and (b) of this subsection, the regulatory authority may not require an applicant to submit any additional documents or inspections to obtain a permit to operate the mobile food unit.

(a) The regulatory authority may require an applicant to submit any restroom agreements the regulatory authority determines are necessary to comply with department and state board regulations.

(b) The regulatory authority may require an applicant to submit additional commissary agreements as required by department and state board regulations unless:

(i) A mobile food unit is exempt from the use of a commissary under RCW 43.20.148; or

(ii) A mobile food unit returns to its approved commissary after each day of service as described in the approved plan.

(3) A regulatory authority granting a permit pursuant to subsection (1) of this section may charge the applicant an annual permit fee, but may not charge a plan review or inspection fee.

(4) The state board must adopt rules to implement this section.

Passed by the Senate April 19, 2019.  
 Passed by the House April 10, 2019.  
 Approved by the Governor April 29, 2019.  
 Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 186

[Substitute Senate Bill 5278]

### STOLEN PAYMENT CARDS--REPORTING

AN ACT Relating to reporting suspected fraud and theft of payment cards; and adding a new chapter to Title 19 RCW.

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

**NEW SECTION. Sec. 1.** (1) Any financial institution which issues payment cards shall list a phone number on its web site for cardholders and merchants to report suspected incidents in which payment cards are used for fraud or payment cards have been stolen.

(2) Any financial institution which issues payment cards shall have employees or contractors available during business hours to receive phone calls for the purpose of providing assistance to cardholders or merchants regarding suspected incidents in which payment cards are used for fraud or payment cards have been stolen. The use of an automated electronic or interactive voice response system may not substitute for the assistance of a live person for these types of suspected incidents.

(3) As used in this section, "payment cards" has the meaning defined in RCW 9A.56.280.

**NEW SECTION. Sec. 2.** Section 1 of this act constitutes a new chapter in Title 19 RCW.

Passed by the Senate March 5, 2019.  
 Passed by the House April 16, 2019.  
 Approved by the Governor April 29, 2019.  
 Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 187

[Engrossed Substitute Senate Bill 5288]

### PERSISTENT OFFENDERS--REMOVING ROBBERY IN THE SECOND DEGREE

AN ACT Relating to removing robbery in the second degree from the list of offenses that qualify an individual as a persistent offender; and amending RCW 9.94A.030.

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

**Sec. 1.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department,

either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed as part of a sentence under this chapter and served in the community subject to controls placed on the offender's movement and activities by the department.

(6) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(7) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(8) "Confinement" means total or partial confinement.

(9) "Conviction" means an adjudication of guilt pursuant to Title 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(12) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(13) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(14) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made

under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(22) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(23) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(26) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(27) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(28) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

(31) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(32) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

(33) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) ~~((Robbery in the second degree;~~

~~(p)))~~ Sexual exploitation;

~~((+))~~ (p) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

~~((+))~~ (q) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

~~((+))~~ (r) Any other class B felony offense with a finding of sexual motivation;

~~((+))~~ (s) Any other felony with a deadly weapon verdict under RCW 9.94A.825;

~~((+))~~ (t) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

~~((+))~~ (u)(i) A prior conviction for indecent liberties under RCW 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

~~((+))~~ (v) Any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was ten years or more; provided that the out-of-state felony offense must be comparable to a felony offense under this title and Title 9A RCW and the out-of-state definition of sexual motivation must be comparable to the definition of sexual motivation contained in this section.

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanor or gross misdemeanor probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any



other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program or the graduated reentry program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in this section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by this section, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A)

"Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Public school" has the same meaning as in RCW 28A.150.010.

(42) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

(43) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(44) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

(45) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(46) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(47) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(48) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(49) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(50) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(51) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(52) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(53) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(54) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(55) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(56) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(57) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(58) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Passed by the Senate March 13, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

CHAPTER 188

[Senate Bill 5337]

SALES AND USE TAX EXEMPTION--POLITICAL SUBDIVISIONS--TRANSFER OF PERSONAL PROPERTY

AN ACT Relating to expanding a sales and use tax exemption for personal property sold between political subdivisions to include sales or uses of personal property as a result of a merger or sales or uses of personal property made under contractual consolidations in which the taxpayer that originally paid the sales or use tax continues to benefit from the personal property; amending RCW 82.08.0278 and 82.12.0274; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 82.08.0278 and 1980 c 37 s 44 are each amended to read as follows:

The tax levied by RCW 82.08.020 (~~shall~~) does not apply to:

(1) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation, merger, or incorporation of any part of the territory of one political subdivision by another; and

(2) Sales to one political subdivision by another political subdivision pursuant to the terms of a contractual consolidation under which the taxpayers that originally paid a sales or use tax continue to benefit from the personal property.

Sec. 2. RCW 82.12.0274 and 1980 c 37 s 72 are each amended to read as follows:

The provisions of this chapter (~~shall~~) do not apply in respect to:

(1) The use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation, merger, or incorporation of any part of the territory of one political subdivision by another; and

(2) The use of the personal property of one political subdivision by another political subdivision pursuant to the terms of a contractual consolidation under which the taxpayers that originally paid a sales or use tax continue to benefit from the personal property.

NEW SECTION. Sec. 3. The provisions of RCW 82.32.808 do not apply to this act.

NEW SECTION. Sec. 4. This act expires January 1, 2030.

Passed by the Senate March 5, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

CHAPTER 189

[Senate Bill 5350]

PUBLIC RETIREMENT SYSTEMS--OPTIONAL LIFE ANNUITY BENEFIT

AN ACT Relating to an optional life annuity benefit for members of the public employees' retirement system, school employees' retirement system, and public safety employees' retirement system; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.37 RCW; adding a new section to chapter 41.35 RCW; and providing an effective date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 41.40 RCW to read as follows:

(1) At the time of retirement, a plan 1 member may purchase an optional actuarially equivalent life annuity benefit from the public employees' retirement system plan 1 fund established in RCW 41.50.075. A minimum payment of five thousand dollars is required.

(2) At the time of retirement, a plan 2 or plan 3 member may purchase an optional actuarially equivalent life annuity benefit from the public employees' retirement system combined plan 2 and plan 3 fund established in RCW 41.50.075. A minimum payment of five thousand dollars is required.

(3) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) For the purposes of this subsection (3), "eligible retirement plan" means a tax qualified plan offered by a governmental employer.

(4) The legislature reserves the right to amend or repeal this section in the future.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.37 RCW to read as follows:

(1) At the time of retirement, a plan 2 member may purchase an optional actuarially equivalent life annuity benefit from the public safety employees' retirement system plan 2 fund established in RCW 41.50.075. A minimum payment of five thousand dollars is required.

(2) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) For the purposes of this subsection (2), "eligible retirement plan" means a tax qualified plan offered by a governmental employer.

(3) The legislature reserves the right to amend or repeal this section in the future.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.35 RCW to read as follows:

(1) At the time of retirement, a plan 2 or plan 3 member may purchase an optional actuarially equivalent life annuity benefit from the school employees' retirement system combined plan 2 and 3 fund established in RCW 41.50.075. A minimum payment of five thousand dollars is required.

(2) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) For the purposes of this subsection (2), "eligible retirement plan" means a tax qualified plan offered by a governmental employer.

(3) The legislature reserves the right to amend or repeal this section in the future.

NEW SECTION. **Sec. 4.** This act takes effect January 1, 2020.

Passed by the Senate March 7, 2019.

Passed by the House April 17, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 190

[Substitute Senate Bill 5474]

### SELF-INSURED EMPLOYERS-DUPLICATES OF CERTAIN ORDERS BY LABOR AND INDUSTRIES

AN ACT Relating to permitting self-insurers to send duplicates of certain orders made by the department of labor and industries; and amending RCW 51.52.050.

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

**Sec. 1.** RCW 51.52.050 and 2011 c 290 s 9 are each amended to read as follows:

(1) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, or if the worker, beneficiary, employer, or other person affected thereby chooses, the department may send correspondence and other legal notices by secure electronic means except for orders communicating the closure of a claim. In the event the department has made an order communicating the closure of a claim of a self-insured employer, the self-insured employer may serve the department order provided the self-insured employer does so using a separate, secure, and verifiable nonelectronic means of delivery and includes the department prescribed notice explaining the contents of the order and any protest or appeal rights. The service by the self-insured employer is a communication for the purposes of filing an appeal under RCW 51.52.060. Persons who choose to receive correspondence and other legal notices electronically shall be provided information to assist them in ensuring all



electronic documents and communications are received. Correspondence and notices must be addressed to such a person at his or her last known postal or electronic address as shown by the records of the department. Correspondence and notices sent electronically are considered received on the date sent by the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia. However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal.

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within fifteen days of the order granting appeal. The board shall conduct an expedited review of the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within twenty-five days of the filing of the motion for stay or the order granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from

the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Passed by the Senate March 5, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 191

[Substitute Senate Bill 5492]

### MOTOR VEHICLE-RELATED FELONIES--SENTENCING

AN ACT Relating to sentencing of motor vehicle-related felonies; amending RCW 9.94A.501; reenacting and amending RCW 9.94A.505; adding a new section to chapter 9.94A RCW; prescribing penalties; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Notwithstanding the provisions of RCW 9.94A.701 and 9.94A.702 and subject to the provisions of this section, a court may sentence an offender to community custody for a period of six to twelve months when the midpoint of the standard sentence range is greater than one year and the person is being sentenced for one of the following crimes:

(a) Theft of a motor vehicle (RCW 9A.56.065);

(b) Possession of a stolen vehicle (RCW 9A.56.068);

(c) Taking a motor vehicle without permission in the first degree (RCW 9A.56.070);

(d) Taking a motor vehicle without permission in the second degree (RCW 9A.56.075); or

(e) Attempt of (a) or (b) of this subsection.

(2) The department shall conduct an assessment of the offender and identify programming and services that would be appropriate to address the offender's needs. To the extent possible, the department shall make available the programming identified by the assessment while the offender is on community custody.

(3) For purposes of this section, the offender's sentence of incarceration may not exceed the mid-point of the standard sentence range reduced by one-third of the ordered term of community custody.

(4) An offender receiving a sentence under this section is not eligible for earned release time under RCW 9.94A.729 in excess of one-third of the total sentence.

(5) No later than November 1, 2025, the department shall submit a report to the governor and the appropriate committees of the legislature analyzing the effectiveness of supervision in reducing recidivism among offenders committing felonies relating to the theft or taking of a motor vehicle. The department shall consult with the Washington state institute for public policy in guiding its data tracking efforts and preparing the report.

(6) This section expires June 30, 2026.

**Sec. 2.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

- (i) Sexual misconduct with a minor second degree;
- (ii) Custodial sexual misconduct second degree;
- (iii) Communication with a minor for immoral purposes; and
- (iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been pleaded and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

(ii) Has a current conviction for a domestic violence felony offense where domestic violence was pleaded and proven. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, ~~(( $\oplus$ ))~~ 9.94A.670, or section 1 of this act;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department shall supervise any offender who is released by the indeterminate sentence review board and who was sentenced to community custody or subject to community custody under the terms of release.

(6) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(7) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

(8) The period of time the department is authorized to supervise an offender under this section may not exceed the duration of community custody specified under RCW 9.94B.050, 9.94A.701 (1) through (8), or 9.94A.702, except in cases where the court has imposed an exceptional term of community custody under RCW 9.94A.535.

**Sec. 3.** RCW 9.94A.505 and 2015 c 287 s 10 and 2015 c 81 s 1 are each reenacted and amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

(iii) RCW 9.94A.570, relating to persistent offenders;

(iv) RCW 9.94A.540, relating to mandatory minimum terms;

(v) RCW 9.94A.650, relating to the first-time offender waiver;

(vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(viii) RCW 9.94A.655, relating to the parenting sentencing alternative;

(ix) RCW 9.94A.507, relating to certain sex offenses;

(x) RCW 9.94A.535, relating to exceptional sentences;

(xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;

(xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug;

(xiii) Section 1 of this act, relating to the theft or taking of a motor vehicle.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The sentencing court shall not give the offender credit for any time the offender was required to comply with an electronic monitoring program prior to sentencing if the offender was convicted of one of the following offenses:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

(d) Reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050;

(e) Assault in the third degree as defined in RCW 9A.36.031;

(f) Assault of a child in the third degree;

(g) Unlawful imprisonment as defined in RCW 9A.40.040; or

(h) Harassment as defined in RCW 9A.46.020.

(8) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(9) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

"Crime-related prohibitions" may include a prohibition on the use or possession of alcohol or controlled substances if the court finds that any chemical dependency or substance abuse contributed to the offense.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

Passed by the Senate March 5, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 192

[Substitute Senate Bill 5502]

### REDISTRICTING PLANS--DEADLINES

AN ACT Relating to alignment of statutory deadlines to the Constitution; and amending RCW 44.05.100.

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

**Sec. 1.** RCW 44.05.100 and 2002 c 4 s 1 are each amended to read as follows:

(1) Upon approval of a redistricting plan by three of the voting members of the commission, but not later than (~~January 1st~~) November 15th of the year ending in (~~two~~) one, the commission shall submit the plan to the legislature.

(2) After submission of the plan by the commission, the legislature shall have the next thirty days during any regular or special session to amend the commission's plan. If the legislature amends the commission's plan the legislature's amendment must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto, and may not include more than two percent of the population of any legislative or congressional district.

(3) The plan approved by the commission, with any amendment approved by the legislature, shall be final upon approval of such amendment or after expiration of the time provided for legislative amendment by subsection (2) of this section whichever occurs first, and shall constitute the districting law applicable to this state for legislative and congressional elections, beginning with the next elections held in the year ending in two. This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

(4) If three of the voting members of the commission fail to approve and submit a plan within the time limitations provided in subsection (1) of this section, the supreme court shall adopt a plan by (~~March 1st~~) April 30th of the year ending in two. Any such plan approved by the court is final and constitutes the districting law applicable to this state for legislative and congressional elections, beginning with the next election held in the year ending in two. This plan shall be in force until the effective date of the plan based on the next

succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

Passed by the Senate March 4, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 193

[Senate Bill 5566]

### PREVAILING WAGE PROGRAM FEES--DETERMINATION--LIMIT

AN ACT Relating to setting fees for administration of the prevailing wage program; and amending RCW 39.12.070.

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

**Sec. 1.** RCW 39.12.070 and 2014 c 148 s 1 are each amended to read as follows:

(1) The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. Except as provided in subsection (3) of this section, the fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

(2) The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter, including, but not limited to, the performance of adequate wage surveys, and to investigate and enforce all alleged violations of this chapter, including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be forty dollars or less, as determined by the director of labor and industries in accordance with this subsection. For the 2019-2021 biennium, the fees shall not be more than twenty dollars.

(3) If, at the time an individual or entity files an affidavit of wages paid, the individual or entity is exempt from the requirement to pay the prevailing rate of wage under RCW 39.12.020, the department of labor and industries may not charge a fee to certify the affidavit of wages paid.

Passed by the Senate March 12, 2019.

Passed by the House April 17, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

**CHAPTER 194**

[Substitute Senate Bill 5689]

**PUBLIC SCHOOLS--HARASSMENT, INTIMIDATION, BULLYING, AND TRANSGENDER DISCRIMINATION**

AN ACT Relating to preventing harassment, intimidation, bullying, and discrimination in public schools; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.642 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.405 RCW; and repealing RCW 28A.300.285.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.600 RCW to read as follows:

**PROHIBITION OF HARASSMENT, INTIMIDATION, OR BULLYING.**

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary a policy and procedure prohibiting harassment, intimidation, and bullying of any student and that, at a minimum, incorporates the model policy and procedure described in subsection (3) of this section.

(b) School districts must share the policy and procedure prohibiting harassment, intimidation, and bullying with parents or guardians, students, volunteers, and school employees in accordance with the rules adopted by the office of the superintendent of public instruction.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying. In addition to other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policy and procedure prohibiting harassment, intimidation, and bullying;

(B) Receive copies of all formal and informal complaints relating to harassment, intimidation, or bullying;

(C) Communicate with the school district employees responsible for monitoring school district compliance with chapter 28A.642 RCW prohibiting discrimination in public schools, and the primary contact regarding the school district's policies and procedures related to transgender students under section 2 of this act; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on the policy and procedure prohibiting harassment, intimidation, and bullying.

(ii) The primary contact from each school district must attend at least one training class as provided in subsection (4) of this section, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policies and procedures relating to transgender students under section 2 of this act.

(2) School districts are encouraged to adopt and update the policy and procedure prohibiting harassment, intimidation, and bullying through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.



(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model policy and procedure prohibiting harassment, intimidation, and bullying.

(b) Each school district must provide to the office of the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials prohibiting harassment, intimidation, and bullying to be posted on the office of the superintendent of public instruction's school safety center web site, and must also provide the office of the superintendent of public instruction with a link to the school district's web site for further information. The school district's primary contact for harassment, intimidation, and bullying issues must annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(c) The office of the superintendent of public instruction must publish on its web site, with a link to the school safety center web site, the revised and updated model policy and procedure prohibiting harassment, intimidation, and bullying, along with training and instructional materials on the components that must be included in any school district policy and procedure prohibiting harassment, intimidation, and bullying. By September 1, 2019, the office of the superintendent of public instruction must adopt rules regarding school districts' communication of the policy and procedure prohibiting harassment, intimidation, and bullying to parents, students, employees, and volunteers.

(4) By December 31, 2020, the office of the superintendent of public instruction must develop a statewide training class for those people in each school district who act as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (1) of this section. The training class must be offered on an annual basis by educational service districts in collaboration with the office of the superintendent of public instruction. The training class must be based on the model policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (3) of this section and include materials related to hazing and the Washington state school directors' association model transgender student policy and procedure as provided in section 2 of this act.

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

(a) "Electronic" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

(b)(i) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act including, but not limited to, one shown to be motivated by any characteristic in RCW 28A.640.010 and 28A.642.010, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(A) Physically harms a student or damages the student's property;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

(ii) Nothing in (b)(i) of this subsection requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.642 RCW to read as follows:

**POLICIES AND PROCEDURES RELATING TO TRANSGENDER STUDENTS.**

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section.

(b) School districts must share the policies and procedures that meet the requirements of (a) of this subsection with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the office of the superintendent of public instruction.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection. In addition to any other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection;

(B) Receive copies of all formal and informal complaints relating to transgender students;

(C) Communicate with the school district employees responsible for monitoring school district compliance with this chapter, and the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under section 1 of this act; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on policies and procedures relating to transgender students that meet the requirements of (a) of this subsection.

(ii) The primary contact from each school district must attend at least one training class as provided in section 1 of this act, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under section 1 of this act.

(2) As required by the office of the superintendent of public instruction, each school district must provide to the office of the superintendent of public instruction its policies and procedures relating to transgender students that meet the requirements of subsection (1)(a) of this section.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to

eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under section 1 of this act, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's web site at no cost to school districts.

(4)(a) By December 31, 2020, the office of the superintendent of public instruction must develop online training material available to all school staff based on the model transgender student policy and procedure described in subsection (3) of this section and the office of the superintendent of public instruction's rules and guidance as provided under this chapter.

(b) The online training material must describe the role of school district primary contacts for monitoring school district compliance with this chapter prohibiting discrimination in public schools, section 1 of this act related to the policies and procedures prohibiting harassment, intimidation, and bullying, and this section related to policies and procedures relating to transgender students.

(c) The online training material must include best practices for policy and procedure implementation and cultural change that are guided by school district experiences.

(d) The office of the superintendent of public instruction must annually notify school districts of the availability of the online training material.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction, in collaboration with the health care authority, the department of health, and the liquor and cannabis board, must review and align the healthy youth survey with the model transgender student policy and procedure developed under section 2 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.405 RCW to read as follows:

A teacher's evaluation under RCW 28A.405.100 may not be negatively impacted if a teacher chooses to use curriculum or instructional materials that address subject matter related to sexual orientation including gender expression or identity so long as the subject matter is age-appropriate and connected to the teacher's content area.

**NEW SECTION. Sec. 5.** RCW 28A.300.285 (Harassment, intimidation, and bullying prevention policies and procedures—Model policy and procedure—Training materials—Posting on web site—Rules—Advisory committee) and 2013 c 23 s 50, 2010 c 239 s 2, 2007 c 407 s 1, & 2002 c 207 s 2 are each repealed.

Passed by the Senate April 18, 2019.

Passed by the House April 9, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 195

[Substitute Senate Bill 5763]

## COLLECTOR TRUCKS

AN ACT Relating to collector truck operators; amending RCW 46.25.010 and 46.25.050; and providing an effective date.

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

**Sec. 1.** RCW 46.25.010 and 2018 c 49 s 4 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial learner's permit" (CLP) means a permit issued under RCW 46.25.052 for the purposes of behind-the-wheel training.

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of any towed unit or units with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds or more), whichever is greater; or

(b) Has a gross vehicle weight rating or gross vehicle weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater; or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15)(a) "Nondomiciled CLP or CDL" means a permit or license, respectively, issued under RCW 46.25.054 to a person who meets one of the following criteria:

(i) Is domiciled in a foreign country as provided in 49 C.F.R. Sec. 383.23(b)(1) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(ii) Is domiciled in another state as provided in 49 C.F.R. Sec. 383.23(b)(2) as it existed on October 1, 2017, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(b) The definition in this subsection (15) applies exclusively to the use of the term in this chapter and is not to be applied in any other chapter of the Revised Code of Washington.

(16) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(17) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(18) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) Driving while using a personal electronic device, defined as a violation of RCW 46.61.672, which includes in the activities it prohibits driving while holding a personal electronic device in either or both hands and using a hand or finger for texting, or an equivalent administrative rule or local law, ordinance, rule, or resolution;

(d) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(e) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(f) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic violation";

(g) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(h) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(20) "State" means a state of the United States and the District of Columbia.

(21) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(22) "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for

transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

(23) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL or CLP holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL or CLP holder or applicant operates only in intrastate commerce and is required to obtain a medical examiner's certificate in accordance with procedures provided in 49 C.F.R. Sec. 391.45 as it existed on April 30, 2019, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section; or

(d) "Excepted intrastate," which means the CDL or CLP holder wishes to maintain a CDL or CLP but not operate a commercial motor vehicle without changing his or her self-certification type.

(24) "United States" means the fifty states and the District of Columbia.

(25) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

(26) "Collector truck" means a vehicle that:

(a) Has current registration;

(b) Is older than thirty years old;

(c) Is a vehicle that meets the weight criteria of subsection (6) of this section;

(d) Is capable of safely operating on the highway;

(e) Is used for occasional use to and from truck conventions, auto shows, circuses, parades, displays, special excursions, and antique vehicle club meetings;

(f) Is used for the pleasure of others without compensation; and

(g) Is not used in the operations of a common or contract motor carrier and not used for commercial purposes.

(27) "Collector truck operator" means an operator of a noncommercial vehicle that is being exclusively owned and operated as a collector truck.

**Sec. 2.** RCW 46.25.050 and 2013 c 224 s 4 are each amended to read as follows:

(1) Drivers of commercial motor vehicles must obtain a commercial driver's license as required under this chapter. Except when driving under a commercial learner's permit and a valid driver's license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds and is in immediate possession of a commercial driver's license and applicable endorsements valid for the vehicle they are driving. However, this requirement does not apply to any person:

(a) Who is the operator of a farm vehicle, and the vehicle is:

(i) Controlled and operated by a farmer;

(ii) Used to transport either agricultural products, which in this section include Christmas trees and wood products harvested from private tree farms and transported by vehicles weighing no more than forty thousand pounds licensed gross vehicle weight, farm machinery, farm supplies, animal manure, animal manure compost, or any combination of those materials to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier; and

(iv) Used within one hundred fifty miles of the person's farm; or

(b) Who is a firefighter or law enforcement officer operating emergency equipment, and:

(i) The firefighter or law enforcement officer has successfully completed a driver training course approved by the director; and

(ii) The firefighter or law enforcement officer carries a certificate attesting to the successful completion of the approved training course; or

(c) Who is operating a recreational vehicle for noncommercial purposes. As used in this section, "recreational vehicle" includes a vehicle towing a horse trailer for a noncommercial purpose; or

(d) Who is operating a commercial motor vehicle for military purposes. This exception is applicable to active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians; or

(e) Who is a collector truck operator using the vehicle in accordance with RCW 46.25.010.

(2) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or canceled, while subject to



disqualification, or in violation of an out-of-service order. Violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1).

(3) The department must, to the extent possible, enter into reciprocity agreements with adjoining states to allow the waivers described in subsection (1) of this section to apply to drivers holding commercial driver's licenses from those adjoining states.

NEW SECTION. **Sec. 3.** This act takes effect October 1, 2019.

Passed by the Senate March 5, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 196

[Substitute Senate Bill 5851]

### PUGET SOUND TAXPAYER ACCOUNT--IMPROVING EDUCATIONAL OUTCOMES

AN ACT Relating to enhancing educational opportunities for vulnerable children and youth using funding distributed from the Puget Sound taxpayer accountability account; and amending RCW 43.79.520.

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

**Sec. 1.** RCW 43.79.520 and 2015 3rd sp.s. c 44 s 423 are each amended to read as follows:

(1)(a) The Puget Sound taxpayer accountability account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may only be used for distribution to counties where a portion of the county is within the boundaries of a regional transit authority that includes a county with a population of one million five hundred thousand or more. Counties may use distributions from the account only (~~for educational services~~) to improve educational outcomes in early learning, K-12, and higher education including, but not limited to, for (~~youths~~) facilities and programs for children and youth that are low-income, homeless, or in foster care, or other vulnerable populations; and for the purposes in subsection (2) of this section. Counties receiving distributions under this section must track all expenditures and uses of the funds. To the greatest extent practicable, the expenditures of the counties must follow the requirements of any transportation subarea equity element used by the regional transit authority.

(2) Counties may use distributions under this section to start endowments to provide support for improving educational outcomes in early learning, K-12, and higher education.

(3) Beginning September 1, 2017, and by the last day of September, December, March, and June of each year thereafter, the state treasurer (~~shall~~) must distribute moneys deposited in the Puget Sound taxpayer accountability account to counties for which a portion of the county is within the boundaries of a regional transit authority that includes a county with a population of one million five hundred thousand. The treasurer must make the distribution to the counties on the relative basis of that transit authority's population that lives within the respective counties.

Passed by the Senate March 5, 2019.

Passed by the House April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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## CHAPTER 197

[Engrossed Substitute Senate Bill 5874]

### RURAL SATELLITE SKILL CENTERS--FUNDING

AN ACT Relating to direct funding for rural satellite skill centers; and amending RCW 28A.245.020.

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

**Sec. 1.** RCW 28A.245.020 and 2007 c 463 s 3 are each amended to read as follows:

(1) Beginning in the 2007-08 school year and thereafter, students attending skill centers shall be funded for all classes at the skill center and the sending districts, up to one and six-tenths full-time equivalents or as determined in the omnibus appropriations act. The office of the superintendent of public instruction shall develop procedures to ensure that the school district and the skill center report no student for more than one and six-tenths full-time equivalent students combining both their high school enrollment and skill center enrollment. Additionally, the office of the superintendent of public instruction shall develop procedures for determining the appropriate share of the full-time equivalent enrollment count between the resident high school and skill center.

(2)(a) A rural satellite skill center must report direct enrollment and receive direct funding if it meets the following criteria:

(i) The center is located at least thirty miles from a core campus or other satellite program and enrolls students from a minimum of two school districts;

(ii) The center is solely responsible for hiring staff and covering all staffing costs;

(iii) The center is solely responsible for providing facilities, equipment, materials, supplies, and training;

(iv) The center has demonstrated the ability to build successful community and local business partnerships;

(v) The center has been operational and has secured agreements for at least one year with two or more rural districts in the area to accept and enroll students in the center, has completed the required feasibility study, and has secured commitments from local businesses or industries;

(vi) The career and technical education advisory committee and the local school district board of directors recommend and support the direct funding; and

(vii) The center shares liability of all reviews for the purposes of auditing and the consolidated program review including state and federal monitoring of the career and technical education programs.

(b) A core campus skill center may receive, for administrative purposes, up to seven percent of the funding provided to a partnered rural satellite skill center under (a) of this subsection.

(c) A core campus skill center may charge the annually required per-pupil facility fee consistent with RCW 28A.245.100 related to minor repair and

maintenance capital accounts as negotiated in the interdistrict cooperative agreement.

(3) For the purposes of this section, "rural," consistent with the definition in the small, rural school achievement program and the rural education achievement program eligibility criteria, means:

(a) A local education agency that serves only schools that have a national center for education statistics school locale code of forty-one, forty-two, or forty-three; or

(b) A local education agency that is located entirely within counties with a population density less than one hundred persons per square mile or counties smaller than two hundred twenty-five square miles as determined and published by the office of financial management each year for the period of July 1st to June 30th.

Passed by the Senate March 12, 2019.

Passed by the House April 17, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

## CHAPTER 198

[House Bill 1092]

### METROPOLITAN PARK DISTRICT COMMISSIONERS--COMPENSATION

AN ACT Relating to the compensation of commissioners of certain metropolitan park districts; and amending RCW 35.61.150.

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

**Sec. 1.** RCW 35.61.150 and 2007 c 469 s 1 are each amended to read as follows:

(1) Metropolitan park commissioners selected by election according to RCW 35.61.050(2) shall perform their duties and may provide, by resolution passed by the commissioners, for the payment of compensation to each of its commissioners at a rate ~~((of))~~ up to ~~((ninety dollars))~~ the daily compensation maximum amount provided in subsection (3) of this section for each day or portion of a day spent in actual attendance at official meetings or in performance of other official services or duties on behalf of the district. However, the compensation for each commissioner must not exceed ~~((eight thousand six hundred forty dollars))~~ the annual compensation maximum amount provided in subsection (3) of this section per year.

(2) Any commissioner may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the clerk of the board. The waiver, to be effective, must be filed any time after the commissioner's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(3)(a) For purposes of the references in subsection (1) of this section, the daily compensation maximum amount is one hundred twenty-eight dollars and the annual compensation maximum amount is twelve thousand two hundred eighty-eight dollars. However, for any metropolitan park district with facilities including an aquarium, a wildlife park, and a zoo, accredited by a nationally

recognized accrediting agency, the annual compensation maximum amount is twenty-four thousand five hundred seventy-six dollars.

(b) The dollar thresholds established in this ((section)) subsection (3) must be adjusted for inflation by the office of financial management every five years, beginning July 1, ((2008)) 2023, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

(4) A person holding office as commissioner for two or more special purpose districts shall receive only that per diem compensation authorized for one of his or her commissioner positions as compensation for attending an official meeting or conducting official services or duties while representing more than one of his or her districts. However, such commissioner may receive additional per diem compensation if approved by resolution of all boards of the affected commissions.

Passed by the House March 11, 2019.

Passed by the Senate April 16, 2019.

Approved by the Governor April 29, 2019.

Filed in Office of Secretary of State April 30, 2019.

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**CHAPTER 199**

[House Bill 1026]

**BREED-BASED DOG REGULATIONS**

AN ACT Relating to breed-based dog regulations; adding a new section to chapter 16.08 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) A number of local jurisdictions have enacted ordinances prohibiting or placing additional restrictions on specific breeds of dogs. While the legislature recognizes that local jurisdictions have a valid public safety interest in protecting citizens from dog attacks, the legislature finds that a dog's breed is not inherently indicative of whether or not a dog is dangerous and that the criteria for determining whether or not a dog is dangerous or potentially dangerous should be focused on the dog's behavior.

(2) The legislature further finds that breed-specific ordinances fail to address the factors that cause dogs to become aggressive and place an undue hardship on responsible dog owners who provide proper socialization and training. The legislature intends to encourage local jurisdictions to more effectively and fairly control dangerous dogs and enhance public safety by focusing on dogs' behavior rather than their breeds.

**NEW SECTION. Sec. 2.** A new section is added to chapter 16.08 RCW to read as follows:

(1) A city or county may not prohibit the possession of a dog based upon its breed, impose requirements specific to possession of a dog based upon its breed, or declare a dog dangerous or potentially dangerous based on its breed unless all of the following conditions are met:

(a) The city or county has established and maintains a reasonable process for exempting any dog from breed-based regulations or a breed ban if the dog passes the American kennel club canine good citizen test or a reasonably equivalent canine behavioral test as determined by the city or county;

(b) Dogs that pass the American kennel club canine good citizen test or a reasonably equivalent canine behavioral test are exempt from breed-based regulations for a period of at least two years;

(c) Dogs that pass the American kennel club canine good citizen test or a reasonably equivalent canine behavioral test are given the opportunity to retest to maintain their exemption from breed-based regulations; and

(d) Dogs that fail the American kennel club canine good citizen test or a reasonably equivalent canine behavioral test are given the opportunity to retest within a reasonable period of time, as determined by the city or county.

(2) This section does not apply to the act of documenting either a dog's breed or its physical appearance, or both, solely for identification purposes when declaring a dog dangerous or potentially dangerous.

(3) For the purpose of this section, "dog" means a domesticated member of the family canidae, specifically species *Canus lupus familiaris*, and excludes nondomesticated members of the family canidae and any hybrids thereof, including but not limited to wolves, coyotes, wolf-dog hybrids, and coyote-dog hybrids.

**NEW SECTION. Sec. 3.** This act takes effect January 1, 2020.

Passed by the House March 8, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

## CHAPTER 200

[House Bill 1062]

### COMMERCIAL FISHING LICENSES--SECURITY INTERESTS

AN ACT Relating to expanding access to commercial fishing opportunities; and amending RCW 77.65.070 and 77.65.020.

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

**Sec. 1.** RCW 77.65.070 and 2001 c 244 s 3 are each amended to read as follows:

(1) A commercial license issued under this chapter permits the license holder to engage in the activity for which the license is issued in accordance with this title and the rules of the department.

(2) ~~((No security interest or lien of any kind, including tax liens, may be created or enforced in a license issued under this chapter.~~

(3)) Unless otherwise provided in this title or rules of the department, commercial licenses and permits issued under this chapter expire at midnight on December 31st of the calendar year for which they are issued. In accordance with this title, licenses may be renewed annually upon application and payment of the prescribed license fees. In accordance with RCW 77.65.030, the department must provide a license or permit holder's surviving spouse, estate, or estate beneficiary a reasonable opportunity to renew the license or permit.

**Sec. 2.** RCW 77.65.020 and 2017 3rd sp.s. c 8 s 17 are each amended to read as follows:

(1) Unless otherwise provided in this title, a license issued under this chapter is not transferable from the license holder to any other person. This may not be deemed to prohibit the granting or enforcement of a security interest in any such license.

(2) The following restrictions apply to transfers of commercial fishery licenses, salmon delivery licenses, and salmon charter licenses that are transferable between license holders:

(a) The license holder shall surrender the previously issued license to the department.

(b) The department shall complete no more than one transfer of the license in any seven-day period.

(c) The fee to transfer a license from one license holder to another is:

(i) The same as the license renewal fee if the license is not limited under chapter 77.70 RCW;

(ii) Three and one-half times the renewal fee if the license is not a commercial salmon license and the license is limited under chapter 77.70 RCW;

(iii) Fifty dollars if the license is a commercial salmon license and is limited under chapter 77.70 RCW; or

(iv) Five hundred dollars if the license is a Dungeness crab-coastal fishery license.

(d) In addition to the fees under (c) of this subsection, an application fee of one hundred five dollars applies to all commercial license transfers.

(3) A commercial license that is transferable under this title survives the death of the holder. Though such licenses are not personal property, they shall be treated as analogous to personal property for purposes of inheritance (~~and~~), intestacy, and enforcement of security interests pursuant to Title 62A RCW. Such licenses are subject to state laws governing wills, trusts, estates, intestate succession, and community property, except that such licenses are exempt from (~~claims of creditors of the estate and~~) tax liens. The surviving spouse, estate, or beneficiary of the estate may apply for a renewal of the license. There is no fee for transfer of a license from a license holder to the license holder's surviving spouse or estate, or to a beneficiary of the estate.

(4) Transfer of a license under this section is subject to the approval of the department according to any rules the department may adopt. Any transfer of a license issued under this chapter without the written consent of each person holding a security interest in the license is void.

Passed by the House March 7, 2019.

Passed by the Senate April 17, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

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## CHAPTER 201

[House Bill 1066]

### DEBT COLLECTION--SERVICE OF SUMMONS AND COMPLAINT--FILING WITH COURT

AN ACT Relating to the service of legal actions to collect a debt by a collection agency; amending RCW 19.16.250; and creating a new section.

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

**NEW SECTION. Sec. 1.** (1) The legislature finds and declares that:

(a) Due process requires that all defendants in court proceedings be provided with adequate notice and a reasonable opportunity to be heard;

(b) Washington superior court civil rule 3 generally allows a plaintiff to serve a defendant with an unfiled summons and complaint. This superior court practice, known as "pocket service," is not allowed in Washington's courts of limited jurisdiction, including the district courts. Pocket service need not interfere with a defendant's due process rights if the defendant is represented by counsel or otherwise familiar with local legal procedural rules;

(c) In the debt collection context, however, many defendants are unfamiliar with the legal process, and most are unrepresented. When served with an unfiled, unnumbered summons and complaint, these defendants do not always realize that they must respond to the unfiled case, or know how to do so, to avoid a default judgment;

(d) In the debt collection context, many unrepresented defendants reasonably conclude that the unnumbered summons and complaint are not valid, particularly when they call the court and are told that no case has been filed. They then intentionally fail to answer and unwittingly give up their only opportunity to contest the debt;

(e) For these reasons, among others, a majority of defendants in debt collection cases filed in Washington superior courts fail to respond to the summons and complaint and, as a result, have default judgments entered against them.

(2) Therefore, the legislature intends to require that debt collection complaints be filed prior to service of the summons and complaint on defendants to ensure that defendants understand that it is an existing court case, are informed of the case number, and receive adequate notice and a reasonable opportunity to respond and be heard to avoid default judgment.

**Sec. 2.** RCW 19.16.250 and 2016 c 86 s 4 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (10)(e) of this section.

(4) Have in his or her possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the unauthorized practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or her or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form, other than through proper legal action, process, or proceedings, which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he or she is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or her or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;



(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or her or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or her or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form concerns a judgment obtained against the debtor, no itemization of the amounts contained in the judgment is required, except postjudgment interest, if claimed, and the current account balance;

(e) If the notice, letter, message, or form is the first notice to the debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate in writing with a debtor concerning a claim through a proper legal action, process, or proceeding, where such communication is the first written communication with the debtor, without providing the information set forth in subsection (8)(c) of this section in the written communication.

(10) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim. If the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall, upon receipt of written notice from the debtor that any part of the claim is disputed, notify the credit reporting bureau of the dispute by written or electronic means and create a record of the fact of the notification and when the notification was provided;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's

employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(11) Threaten the debtor with impairment of his or her credit rating if a claim is not paid: PROVIDED, That advising a debtor that the licensee has reported or intends to report a claim to a credit reporting agency is not considered a threat if the licensee actually has reported or intends to report the claim to a credit reporting agency.

(12) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or she or it again receives notification in writing that an attorney is representing the debtor.

(13) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week, unless the licensee is responding to a communication from the debtor or spouse;

(b) It is made with a debtor at his or her place of employment more than one time in a single week, unless the licensee is responding to a communication from the debtor;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a telephone is presumed to be received in the local time zone to which the area code of the number called is assigned for landline numbers, unless the licensee reasonably believes the

telephone is located in a different time zone. If the area code is not assigned to landlines in any specific geographic area, such as with toll-free telephone numbers, a call to a telephone is presumed to be received in the local time zone of the debtor's last known place of residence, unless the licensee reasonably believes the telephone is located in a different time zone.

(14) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(15) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(16) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(17) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made: PROVIDED, That:

(a) This subsection does not prohibit a licensee from attempting to communicate by way of a cellular telephone or other wireless device: PROVIDED, That a licensee cannot cause charges to be incurred to the recipient of the attempted communication more than three times in any calendar week when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call is made.

(b) The licensee is not in violation of (a) of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone.

(c) This subsection may not be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(18) Call, or send a text message or other electronic communication to, a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call, text message, or other electronic communication is made. The licensee is not in violation of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone.

Nothing in this subsection may be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(19) Intentionally block its telephone number from displaying on a debtor's telephone.

(20) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(21) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(22) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (21) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(23) Bring an action or initiate an arbitration proceeding on a claim when the licensee knows, or reasonably should know, that such suit or arbitration is barred by the applicable statute of limitations.

(24) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the

debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records.

(25) Bring an action or initiate an arbitration proceeding on a claim for any amounts related to a transfer of sale of a vehicle when:

(a) The licensee has been informed or reasonably should know that the department of licensing transfer of sale form was filed in accordance with RCW 46.12.650 (1) through (3);

(b) The licensee has been informed or reasonably should know that the transfer of the vehicle either (i) was not made pursuant to a legal transfer or (ii) was not voluntarily accepted by the person designated as the purchaser/transferee; and

(c) Prior to the commencement of the action or arbitration, the licensee has received from the putative transferee a copy of a police report referencing that the transfer of sale of the vehicle either (i) was not made pursuant to a legal transfer or (ii) was not voluntarily accepted by the person designated as the purchaser/transferee.

(26) Submit an affidavit or other request pursuant to chapter 6.32 RCW asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee, when the debtor has appeared as required.

(27) Serve a debtor with a summons and complaint unless the summons and complaint have been filed with the court and bear the case number assigned by the court.

Passed by the House February 14, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

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## CHAPTER 202

[House Bill 1070]

### RENEWABLE NATURAL GAS--TAXES

AN ACT Relating to the tax treatment of renewable natural gas; amending RCW 82.16.310, 82.04.310, and 82.04.120; and creating a new section.

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

**Sec. 1.** RCW 82.16.310 and 2014 c 216 s 301 are each amended to read as follows:

(1) The provisions of this chapter do not apply to sales by a gas distribution business of:

(a) Compressed natural gas or liquefied natural gas, where the compressed natural gas or liquefied natural gas is to be sold or used as transportation fuel; ~~((or))~~

(b) Natural gas from which the buyer manufactures compressed natural gas or liquefied natural gas, where the compressed natural gas or liquefied natural gas is to be sold or used as transportation fuel; or

(c) Renewable natural gas.

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) For the purposes of this section, "transportation fuel" means fuel for the generation of power to propel a motor vehicle as defined in RCW 46.04.320, a vessel as defined in RCW 88.02.310, or a locomotive or railroad car.

(4) For the purpose of this section, "renewable natural gas" has the same meaning as provided in RCW 54.04.190.

**Sec. 2.** RCW 82.04.310 and 2014 c 216 s 302 are each amended to read as follows:

(1) This chapter does not apply to any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of chapter 82.16 RCW including amounts derived from activities for which a deduction is allowed under RCW 82.16.050. The exemption in this subsection does not apply to sales of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas, by a gas distribution business, if such sales are exempt from the tax imposed under chapter 82.16 RCW as provided in RCW 82.16.310.

(2) This chapter does not apply to amounts received by any person for the sale of electrical energy for resale within or outside the state.

(3)(a) This chapter does not apply to amounts received by any person for the sale of natural or manufactured gas in a calendar year if that person sells within the United States a total amount of natural or manufactured gas in that calendar year that is no more than twenty percent of the amount of natural or

manufactured gas that it consumes within the United States in the same calendar year.

(b) For purposes of determining whether a person has sold within the United States a total amount of natural or manufactured gas in a calendar year that is no more than twenty percent of the amount of natural or manufactured gas that it consumes within the United States in the same calendar year, the following transfers of gas are not considered to be the sale of natural or manufactured gas:

(i) The transfer of any natural or manufactured gas as a result of the acquisition of another business, through merger or otherwise; or

(ii) The transfer of any natural or manufactured gas accomplished solely to comply with federal regulatory requirements imposed on the pipeline transportation of such gas when it is shipped by a third-party manager of a person's pipeline transportation.

**Sec. 3.** RCW 82.04.120 and 2014 c 216 s 303 are each amended to read as follows:

(1) "To manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and includes:

(a) The production or fabrication of special made or custom made articles;

(b) The production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician;

(c) Cutting, delimiting, and measuring of felled, cut, or taken trees;

(d) Crushing and/or blending of rock, sand, stone, gravel, or ore; (~~and~~)

(e) The production of compressed natural gas or liquefied natural gas for use as a transportation fuel as defined in RCW 82.16.310; and

(f) The production or processing of renewable natural gas.

(2) "To manufacture" does not include:

(a) Conditioning of seed for use in planting; cubing hay or alfalfa;

(b) Activities which consist of cutting, grading, or ice glazing seafood which has been cooked, frozen, or canned outside this state;

(c) The growing, harvesting, or producing of agricultural products;

(d) Packing of agricultural products, including sorting, washing, rinsing, grading, waxing, treating with fungicide, packaging, chilling, or placing in controlled atmospheric storage;

(e) The production of digital goods;

(f) The production of computer software if the computer software is delivered from the seller to the purchaser by means other than tangible storage media, including the delivery by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser; and

(g) Except as provided in subsection (1)(e) of this section, any activity that is integral to any public service business as defined in RCW 82.16.010 and with respect to which the gross income associated with such activity: (i) Is subject to tax under chapter 82.16 RCW; or (ii) would be subject to tax under chapter 82.16 RCW if such activity were conducted in this state or if not for an exemption or deduction.

(3) With respect to wastewater treatment facilities:

(a) "To manufacture" does not include the treatment of wastewater, the production of reclaimed water, and the production of class B biosolids; and

(b) "To manufacture" does include the production of class A or exceptional quality biosolids, but only with respect to the processing activities that occur after the biosolids have reached class B standards.

NEW SECTION. **Sec. 4.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

Passed by the House March 8, 2019.

Passed by the Senate April 15, 2019.

Approved by the Governor April 30, 2019.

Filed in Office of Secretary of State May 1, 2019.

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## AUTHENTICATION

I, Kathleen Buchli, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2019 session (66th Legislature), chapters 1 through 202, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 29th day of May, 2019.

A handwritten signature in black ink, appearing to read "Kathleen Buchli". The signature is written in a cursive style with a large initial "K".

Kathleen Buchli  
Code Reviser