

EIGHTY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 8, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Cole Paxton and Katherine Nelson, presented the Colors. Senator Shin offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE SENATE BILL NO. 5359,
- SUBSTITUTE SENATE BILL NO. 5364,
- SUBSTITUTE SENATE BILL NO. 5428,
- SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004,
- SENATE JOINT RESOLUTION NO. 8205.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE SENATE BILL NO. 5423.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE HOUSE BILL NO. 1449.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL 2017.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5925 by Senators Haugen, White, Hobbs, Brown, Nelson and Prentice

AN ACT Relating to additive transportation funding; amending RCW 46.20.055, 46.20.117, 46.20.161, 46.20.181, 46.20.200, 46.20.202, 46.20.049, 46.25.060, 46.25.100, 46.20.308, 46.20.380, 46.17.230, 46.17.310, 46.17.315, 46.17.400, 46.17.400, 46.68.455, 46.17.005, 46.17.100, 46.17.140, 46.17.200, 46.17.200, 46.87.090, 46.87.130, 46.52.130, 46.20.293, 46.82.310, 46.82.320, 46.82.330, 46.82.340, 46.01.230, 46.70.061, 46.55.030, 46.80.040, 46.80.050, 46.80.060, 46.79.040, 46.79.050, 46.79.060, 46.76.040, 46.76.050, and 46.37.420; reenacting and amending RCW 46.20.120; creating new sections; making appropriations and authorizing expenditures for capital improvements; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5926 by Senators Keiser, Kline, Kohl-Welles, Harper, Murray, Chase, Conway, Nelson and White

AN ACT Relating to restoring funding to in-home care services; adding a new section to chapter 74.09 RCW; creating a new section; repealing RCW 82.08.0273; and providing for submission of this act to a vote of the people.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1277 by House Committee on Ways & Means (originally sponsored by Representative Cody)

AN ACT Relating to oversight of licensed or certified long-term care settings for vulnerable adults; amending RCW 70.128.005, 70.128.050, 70.128.065, 70.128.070, 70.128.120, 70.128.130, 70.128.140, 70.128.160, 70.128.220, 70.129.040, 70.128.125, 18.20.180, 18.51.050, 18.20.050, and 70.128.060; adding new sections to chapter 74.39A RCW; creating new sections; repealing RCW 70.128.175; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

2E2SHB 1738 by House Committee on Ways & Means (originally sponsored by Representatives Cody and Jinkins)

AN ACT Relating to changing the designation of the medicaid single state agency from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority; amending RCW 74.09.037, 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160, 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480, 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521, 74.09.5222, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565, 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659, 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730, 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011, 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055, 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260, 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008, 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.020, 70.47.110, 70.48.130, 70.168.040, 70.225.040, 74.09A.005, 74.09A.010, 74.09A.020, 74.09A.030, and 74.09.015; reenacting and amending RCW 74.09.010, 74.09.035, and 74.09.522; adding new sections to chapter 74.09 RCW; adding a new section to chapter 43.20A RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.20A.365; repealing RCW 74.09.085, 74.09.110, 74.09.5221, 74.09.5227, 74.09.755, 43.20A.860, and 74.04.270; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5926 which was referred to the Committee on Health & Long-Term Care.

MOTION

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

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Conway moved that Gubernatorial Appointment No. 9040, Harold Hanson, as Director of the Washington State Lottery Commission, be confirmed.

Senator Conway spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Benton and Schoesler were excused.

MOTION

On motion of Senator White, Senator Sheldon was excused.

APPOINTMENT OF HAROLD HANSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9040, Harold Hanson as Director of the Washington State Lottery Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9040, Harold Hanson as Director of the Washington State Lottery Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9040, Harold Hanson, having received the constitutional majority was declared confirmed as Director of the Washington State Lottery Commission.

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9093, Jada Rupley, as a member of the Board of Trustees, Clark College Community College District No. 14, be confirmed. Senator Pridemore spoke in favor of the motion.

APPOINTMENT OF JADA RUPLEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9093, Jada Rupley as a member of the Board of Trustees, Clark College Community College District No. 14.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9093, Jada Rupley as a member of the Board of Trustees, Clark College Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9093, Jada Rupley, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clark College Community College District No. 14.

REMARKS BY THE PRESIDENT

President Owen: "The President wishes Senator Benton a Happy Birthday."

SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9014, James Carvo, as a member of the Board of Trustees, Yakima Valley Community College District No. 16, be confirmed.

Senators Prentice and King spoke in favor of passage of the motion.

APPOINTMENT OF JAMES CARVO

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9014, James Carvo as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9014, James Carvo as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9014, James Carvo, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

SECOND READING

SENATE JOINT RESOLUTION NO. 8215, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Zarelli, Brown, Hobbs, Fraser, Tom, Sheldon, Honeyford and Hewitt)

Concerning the debt reduction act of 2011.

MOTIONS

On motion of Senator Kilmer, Substitute Senate Joint Resolution No. 8215 was substituted for Senate Joint Resolution No. 8215 and the substitute resolution was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Joint Resolution No. 8215 was advanced to third reading, the second reading considered the third and the bill resolution was placed on final passage.

Senators Kilmer, Parlette, Hewitt, Brown, Ericksen, Hargrove and Benton spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Substitute Senate Joint Resolution No. 8215.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Joint Resolution No. 8215 and the resolution passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE JOINT RESOLUTION NO. 8215, having received the constitutional majority, was declared passed.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1218, by House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne)

Making technical corrections to the Revised Code of Washington.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1218 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1218.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1218 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1218, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790, by House Committee on Ways & Means (originally sponsored by Representatives Dammeier, Sullivan, Hinkle, Green and Ormsby)

Addressing school district contracts with direct practice health providers.

The measure was read the second time.

MOTION

Senator Murray moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.400.280 and 1990 1st ex.s. c 11 s 6 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional ~~((benefit plans))~~ benefits may include direct agreements as defined in chapter 48.150 RCW, but may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents, without a payroll deduction for premium charges;

(c) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

(d) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or proration of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes.

Sec. 2. RCW 28A.400.350 and 2001 c 266 s 2 are each amended to read as follows:

(1) The board of directors of any of the state's school districts or educational service districts may make available liability, life, health, health care, accident, disability, and salary protection or insurance, direct agreements as defined in chapter 48.150 RCW, or any one of, or a combination of the ~~((enumerated))~~ types of ~~((insurance))~~ employee benefits enumerated in this subsection, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Any direct agreement must comply with RCW 48.150.050.

(2) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance

unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW."

Senator Murray spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1790.

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

MOTION

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

On page 1, line 2 of the title, after "providers;" strike the remainder of the title and insert "and amending RCW 28A.400.280 and 28A.400.350."

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1790 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1790 as amended by the Senate.

ROLL CALL

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1790 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1454, by Representatives Van De Wege, Hinkle, Green, Jinkins, Cody, Takko, Hurst, Liias, Hope, Stanford and Overstreet

Regarding testing for bloodborne pathogens.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1454 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1454.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1454 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1454, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1520, by Representatives Moscoso, Stanford and Clibborn

Modifying state route number 527.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1520 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1520.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1520 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1520, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1290, by Representatives Green, Cody, Van De Wege, Sells, Kenney and Reykdal

Concerning mandatory overtime for certain health care employees.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.28.130 and 2002 c 112 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.28.140 and 49.28.150 unless the context clearly requires otherwise.

(1) "Employee" means a licensed practical nurse or a registered nurse licensed under chapter 18.79 RCW employed by a health care facility who is involved in direct patient care activities or clinical services and receives an hourly wage.

(2) "Employer" means an individual, partnership, association, corporation, the state ((institution)), a political subdivision of the state, or person or group of persons, acting directly or indirectly in the interest of a health care facility.

(3)(a) "Health care facility" means the following facilities, or any part of the facility, including such facilities if owned and operated by a political subdivision or instrumentality of the state, that operate((s)) on a twenty-four hours per day, seven days per week basis:

(i) Hospices licensed under chapter 70.127 RCW((§));

(ii) Hospitals licensed under chapter 70.41 RCW((§));

(iii) Rural health care facilities as defined in RCW 70.175.020((§ and));

(iv) Psychiatric hospitals licensed under chapter 71.12 RCW((§ and includes such facilities if owned and operated by a political subdivision or instrumentality of the state)); or

(v) Facilities owned and operated by the department of corrections or by a governing unit as defined in RCW 70.48.020 in a correctional institution as defined in RCW 9.94.049 that provide health care services to inmates as defined in RCW 72.09.015.

(b) If a nursing home regulated under chapter 18.51 RCW or a home health agency regulated under chapter 70.127 RCW is operating under the license of a health care facility, the nursing home or home health agency is considered part of the health care facility for the purposes of this subsection.

(4) "Overtime" means the hours worked in excess of an agreed upon, predetermined, regularly scheduled shift within a twenty-four hour period not to exceed twelve hours in a twenty-four hour period or eighty hours in a consecutive fourteen-day period.

(5) "On-call time" means time spent by an employee who is not working on the premises of the place of employment but who is compensated for availability or who, as a condition of employment, has agreed to be available to return to the premises of the place of employment on short notice if the need arises.

(6) "Reasonable efforts" means that the employer, to the extent reasonably possible, does all of the following but is unable to obtain staffing coverage:

(a) Seeks individuals to volunteer to work extra time from all available qualified staff who are working;

(b) Contacts qualified employees who have made themselves available to work extra time;

(c) Seeks the use of per diem staff; and

(d) Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

(7) "Unforeseeable emergent circumstance" means (a) any unforeseen declared national, state, or municipal emergency; (b) when a health care facility disaster plan is activated; or (c) any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 1290.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 49.28.130; and creating a new section."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1290 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Pflug, Holmquist Newbry and King spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1290 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1290 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senator Prentice

HOUSE BILL NO. 1290, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE JOINT MEMORIAL NO. 4004, by Representatives Short, Blake, Bailey, Hunt, Crouse, Nealey, Haler, Rodne, McCune, Buys, Asay, Klippert, Warnick, Shea, Kelley, Johnson, Seaquist, Taylor, Roberts, Haigh, Ross, Ahern, Upthegrove, Smith and Kristiansen

Requesting the designation of an "Honor and Remember Flag" as an official symbol to recognize Armed Forces members who have died in the line of duty.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Joint Memorial No. 4004 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senator Pridemore spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of House Joint Memorial No. 4004.

ROLL CALL

The Secretary called the roll on the final passage of House Joint Memorial No. 4004 and the memorial passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

HOUSE JOINT MEMORIAL NO. 4004, having received the constitutional majority, was declared passed.

MOTION

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

MOTION

Senator Haugen moved adoption of the following resolution:

SENATE RESOLUTION
8646

By Senators Haugen, Becker, Hargrove, Stevens, Kilmer, Hatfield, Rockefeller, Litzow, McAuliffe, Prentice, Fraser, Chase, Eide, Kastama, Tom, Nelson, Harper, Pridemore, Keiser, Conway, Kohl-Welles, Swecker, King, and Morton

WHEREAS, Camp Fire USA was founded by Charlotte and Dr. Luther Gulick in 1910 as Camp Fire Girls, and was the first nonsectarian, interracial organization for girls in the United States; and

WHEREAS, Based on a commitment to the entire family, membership in Camp Fire USA was expanded to include boys in 1975; and

WHEREAS, Camp Fire USA celebrated 100 years of building caring, confident youth and future leaders in 2010; and

WHEREAS, Camp Fire USA's motto since 1910 has been, "Give Service"; and

WHEREAS, Camp Fire USA welcomes all children, youth, and adults regardless of race, religion, socioeconomic status, disability, sexual orientation, or other aspect of diversity; and

WHEREAS, Camp Fire USA promotes effective youth development that builds assets and empowers individuals through small groups where children and youth are actively involved in creating their own learning; and

WHEREAS, Camp Fire USA provides safe, fun, and nurturing environments for children and youth, providing opportunities for boys, girls, and families to develop together; and

WHEREAS, Camp Fire USA has programs delivered in schools, camps, housing developments, neighborhood centers, and transitional housing shelters; and

WHEREAS, Camp Fire USA challenges parents and youth to build character, adopt strong values, develop positive life skills, and exercise responsibility to family and community; and

WHEREAS, Camp Fire USA Councils serve communities all over the state; and

WHEREAS, Over thirty-eight thousand Washington youth participated in Camp Fire USA last year; and

WHEREAS, Each youth attended over four programs or events last year, on average, resulting in over two million hours of youth participation in Camp Fire USA;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate salute the Camp Fire USA Councils of Washington for celebrating 100 years; and

BE IT FURTHER RESOLVED, That the Senate commend the leaders and volunteers of each of the eight Washington Camp Fire USA Councils for their continued dedication and commitment to the youth of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the eight Washington Camp Fire USA Councils and the Camp Fire USA National Headquarters.

Senators Haugen and Brown spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8646.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Camp Fire USA members who were seated in the gallery.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1237, by House Committee on Transportation (originally sponsored by Representatives Haler, Clibborn, Klippert and Moeller)

Concerning federal selective service registration upon application for an instruction permit, intermediate license, driver's license, or identicaid.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1237 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1237.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1237 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

SUBSTITUTE HOUSE BILL NO. 1237, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove, Nealey, Ormsby, Green, Fitzgibbon, Liias, Orcutt, Maxwell, Sullivan, Pedersen, Anderson, Van De Wege, McCune, Orwall, Ross, Goodman, Sells, Bailey, Stanford, Pearson, Roberts, Kristiansen, Warnick, Cody, Moscoso and Billig)

Concerning services performed by amateur sports officials.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1636 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1636.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1636 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1953, by Representatives Springer, Asay, Takko, Upthegrove, Haler, Fitzgibbon, Angel, Smith and Sullivan

Concerning county and city real estate excise taxes.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1953 was advanced to third reading, the second

reading considered the third and the bill was placed on final passage.

Senators Pridemore, Swecker, Ranker and Sheldon spoke in favor of passage of the bill.

Senators Tom, Benton and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1953.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1953 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Stevens, Tom and Zarelli

Excused: Senator Prentice

HOUSE BILL NO. 1953, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:55 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:14 p.m. by President Owen.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9049, Addison Jacobs, as a member of the Higher Education Coordinating Board, be confirmed.

Senators Pridemore and Benton spoke in favor of passage of the motion.

MOTION

On motion of Senator Ericksen, Senators Roach and Schoesler were excused.

MOTION

On motion of Senator White, Senators Hatfield, Hobbs and Kline were excused.

APPOINTMENT OF ADDISON JACOBS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9049, Addison Jacobs as a member of the Higher Education Coordinating Board.

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9049, Addison Jacobs as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hatfield and Hobbs

Gubernatorial Appointment No. 9049, Addison Jacobs, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

MOTION

On motion of Senator Ranker, Senator Brown was excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9071, Cathy McAbee, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

Senator Prentice spoke in favor of the motion.

APPOINTMENT OF CATHY MCABEE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9071, Cathy McAbee as a member of the Board of Trustees, Renton Technical College District No. 27.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9071, Cathy McAbee as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Delvin and Hobbs

Gubernatorial Appointment No. 9071, Cathy McAbee, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1793, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi)

Restricting access to juvenile records.

The measure was read the second time.

MOTION

Senator Harper moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) One of the goals of the juvenile justice system is to rehabilitate juvenile offenders and promote their successful reintegration into society. Without opportunities to reintegrate, juveniles suffer increased recidivism and decreased economic function.

(2) The unrestricted dissemination of juvenile records can hinder social reintegration when inaccurate, outdated, or personal information regarding the juvenile remains in the public realm.

(3) Limiting the number of mechanisms for accessing juvenile records and the number of places where they may be housed can increase overall public record accuracy while promoting rehabilitation and integration.

(4) The public has an interest in accessing information relating to juvenile records for public safety and research purposes.

(5) The public's legitimate interest in accessing personal information must be balanced with the rehabilitative goals of the juvenile justice system. All benefit when former juvenile offenders, after paying their debt to society, reintegrate and contribute to their local communities as productive citizens.

(6) It is the intent of the legislature to balance the rehabilitative and reintegration needs of an effective juvenile justice system with the public's need to access personal information for public safety and research purposes.

NEW SECTION. Sec. 2. The administrative office of the courts shall convene a work group of stakeholders to develop recommendations that would cost-effectively restrict the public access to juvenile records where an individual has met the statutory requirements of RCW 13.50.050(12) and without requiring individuals who are the subject of the records to file a motion to seal in juvenile court. The members of the work group shall be representatives from the administrative office of the courts, the judicial information systems data dissemination committee, the association of clerks, the Washington defender association, the Washington association of prosecuting attorneys, the Washington state patrol, and a member of the Washington state bar association juvenile law section. The work group shall develop recommendations and report to the appropriate committees of the legislature by December 1, 2011.

Sec. 3. RCW 13.50.050 and 2010 c 150 s 2 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central recordkeeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central recordkeeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central recordkeeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14)(a) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section, unless such failure pertains to records relating to a matter for which the subject has received a full and unconditional pardon.

(b) All records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed when the subject of those records receives a full and unconditional pardon by the governor.

(c) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

~~((e))~~ (d) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)~~((b)-(e))~~ (c) or (d) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)~~((b)-(e))~~ (c) or (d) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) Except for subsection (17)(b) of this section, no identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

NEW SECTION. Sec. 4. RCW 13.50.050 (14)(b) and (17)(b) apply to all records of a full and unconditional pardon and should be applied retroactively as well as prospectively."

MOTION

Senator Benton moved that the following amendment by Senators Benton and Harper to the committee striking amendment be adopted:

On page 2, line 2, after "court", insert "The workgroup shall also develop recommendations that would cost effectively restrict public access to records related to diversions entered into in criminal matters."

On page 2, line 7, after "patrol," insert "the association of juvenile court administrators, the Washington association of criminal defense lawyers, the juvenile rehabilitation administration within DSHS,"

Senator Benton spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Harper on page 2, line 2 to the committee striking amendment to Substitute House Bill No. 1793.

The motion by Senator Benton carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Substitute House Bill No. 1793.

The motion by Senator Harper carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "records;" strike the remainder of the title and insert "amending RCW 13.50.050; and creating new sections."

MOTION

On motion of Senator Harper, the rules were suspended, Substitute House Bill No. 1793 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1793 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1793 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Holmquist Newbry, Parlette, Roach, Schoesler and Zarelli

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1793 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1170, by House Committee on Judiciary (originally sponsored by Representatives Roberts, Hope, Dickerson, Dammeier, Green, Rolfes, Haigh, Appleton, Walsh, Ormsby, Darneille and Kenney)

Concerning triage facilities.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 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) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(44) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

~~((44))~~ (45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 2. RCW 71.05.153 and 2007 c 375 s 8 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, ~~((an))~~ evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, ~~((or the))~~ emergency department of a local hospital, or triage facility that has elected to operate as an involuntary facility by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours~~((: PROVIDED, That they are examined by a mental health professional))~~.

(4) Within three hours of ~~((their))~~ arrival, the person must be examined by a mental health professional. Within twelve hours of ~~((their))~~ arrival, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional

shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person.

Sec. 3. RCW 10.31.110 and 2007 c 375 s 2 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a nonfelony crime that is not a serious offense as identified in RCW 10.77.092 and the individual is known by history or consultation with the regional support network to suffer from a mental disorder, the arresting officer may:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020(6). Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours~~((: PROVIDED, That they are))~~. The individual must be examined by a mental health professional within three hours of ~~((their))~~ arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(c) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

~~((e))~~ (d) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) In deciding whether to refer the individual to treatment under this section, the police officer shall be guided by standards mutually agreed upon with the prosecuting authority, which address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, where available, and the circumstances surrounding the commission of the alleged offense.

(3) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

(4) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

(5) The police officer is immune from liability for any good faith conduct under this section.

NEW SECTION. Sec. 4. Facilities providing triage services as of the effective date of this section are not required to relicense or recertify under any new rules governing licensure or certification of triage facilities. The department of social and health services shall work with the Washington association of counties and the Washington association of sheriffs and police chiefs in creating rules that establish standards for certification of triage facilities. The department of health rules must not require triage facilities to provide twenty-four hour nursing.

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."

MOTION

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

Senator Hargrove moved that the following amendment by Senators Hargrove, Harper and Stevens to the committee striking amendment be adopted:

On page 9, after line 19 of the amendment, insert the following:

"Sec. 4. RCW 71.24.035 and 2008 c 267 s 5 and 2008 c 261 s 3 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045, until such time as a new regional support network is designated under RCW 71.24.320.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards, RCW 71.24.320 and 71.24.330, which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; ~~((and))~~

(p) Certify clubhouses that meet state minimum standards; and

(q) Certify triage facilities that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and

regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 5. RCW 71.05.150 and 2007 c 375 s 7 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as a result of a mental disorder: (i) Presents a likelihood of serious harm; or (ii) is gravely disabled; the designated mental health professional may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility (~~or in a~~), crisis stabilization unit, or triage facility.

(2)(a) An order to detain to a designated evaluation and treatment facility for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated mental health professional, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The designated mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated mental health professional may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention."

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

On page 9, line 20 of the amendment, strike "providing triage services" and insert "operating as triage facilities as defined in RCW 71.05.020, whether or not they are certified by the department of social and health services,"

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Harper and Stevens on page 9, after line 19 to the committee striking amendment to Substitute House Bill No. 1170.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Substitute House Bill No. 1170.

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

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 71.05.153 and 10.31.110;

reenacting and amending RCW 71.05.020; creating a new section; and declaring an emergency."

On page 10, beginning on line 2 of the title amendment, after "71.05.153" strike all material through "71.05.020" on line 3 and insert ", 10.31.110, and 71.05.150; reenacting and amending RCW 71.05.020 and 71.24.035"

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1170 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1170 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1170 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1170 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1431, by House Committee on Education (originally sponsored by Representatives Anderson and Haigh)

Addressing financial insolvency of school districts.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The superintendent of public instruction shall convene educational service districts to analyze options and make recommendations for a clear legal framework and process for dissolution of a school district on the basis of financial insolvency.

(2) The analysis must include, but not be limited to:

(a) A definition of financial insolvency;

(b) A time frame, criteria, and process for initiating a dissolution of an insolvent school district;

(c) Roles and responsibilities of the office of the superintendent of public instruction, educational service districts, and regional committees on school district organization; and

(d) Recommendations for how to address such issues as:

(i) Limiting a school board's ability to incur additional debt during the dissolution process;

(ii) Terminating staff contracts expeditiously;

(iii) Liquidation of liabilities;

(iv) Waiving requirements of the school accounting manual;

(v) Clarifying effective dates of transfers of property for taxation purposes;

(vi) Dealing with bonded indebtedness; and

(vii) Circumstances that require approval of voters in either the annexing school district or the dissolving school district, or both.

(3) In conducting the analysis, the educational service districts must consult with individuals with legal and financial expertise.

(4) As part of their report, the educational service districts may recommend a financial early warning system for consistent, early identification of school districts with potential fiscal difficulties.

(5) The superintendent of public instruction must submit a final report and recommendations to the governor and the education and fiscal committees of the legislature by January 5, 2012. The recommendations must specifically address amendments to current law as well as propose new laws as necessary.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 1431.

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

MOTION

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

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "and creating new sections."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1431 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1431 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1431 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1431 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1188, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Kelley, Hurst, Kenney, Moscoso, Warnick, Roberts, Maxwell, Lias, Frockt, Rolfes, Sullivan, Carlyle, Finn, Hudgins, Kagi, Miloscia, Appleton, Ladenburg and Fitzgibbon)

Concerning suffocation and other domestic violence offenses.

The measure was read the second time.

MOTION

Senator Harper moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.36.021 and 2007 c 79 s 2 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or

(g) Assaults another by strangulation or suffocation.

(2)(a) Except as provided in (b) of this subsection, assault in the second degree is a class B felony.

(b) Assault in the second degree with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

Sec. 2. RCW 9A.04.110 and 2007 c 79 s 3 are each amended to read as follows:

In this title unless a different meaning plainly is required:

(1) "Acted" includes, where relevant, omitted to act;

(2) "Actor" includes, where relevant, a person failing to act;

(3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;

(4)(a) "Bodily injury," "physical injury," or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ;

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in ~~((willful))~~ 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))~~ willful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Projectile stun gun" means an electronic device that projects wired probes attached to the device that emit an electrical

charge and that is designed and primarily employed to incapacitate a person or animal;

(22) "Property" means anything of value, whether tangible or intangible, real or personal;

(23) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(24) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(25) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(26) "Strangulation" means to compress a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe;

(27) "Suffocation" means to block or impair a person's intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the person's ability to breathe;

(28) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

~~((28))~~ (29) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

~~((29))~~ (30) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

Sec. 3. RCW 9.94A.525 and 2010 c 274 s 403 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same

date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is 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)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(g) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to

other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the

EIGHTY NINTH DAY, APRIL 8, 2011

influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130~~((44))~~ or 9A.44.132, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130~~((44))~~ or 9A.44.132, which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was plead and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the following offenses: A violation of a no-contact order that is a felony offense, a violation of a protection order that is a felony offense, a felony domestic violence harassment offense, a felony domestic violence stalking

2011 REGULAR SESSION

offense, a domestic violence Burglary 1 offense, a domestic violence Kidnapping 1 offense, a domestic violence Kidnapping 2 offense, a domestic violence unlawful imprisonment offense, a domestic violence Robbery 1 offense, a domestic violence Robbery 2 offense, a domestic violence Assault 1 offense, a domestic violence Assault 2 offense, a domestic violence Assault 3 offense, a domestic violence Arson 1 offense, or a domestic violence Arson 2 offense; ~~((and))~~

(b) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the offenses listed in (a) of this subsection; ~~and~~

(c) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was plead and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1188.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "crimes against persons involving suffocation or domestic violence; amending RCW 9A.36.021, 9A.04.110, and 9.94A.525; and prescribing penalties."

MOTION

On motion of Senator Harper, the rules were suspended, Substitute House Bill No. 1188 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1188 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1188 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King,

Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1188 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5359,
SUBSTITUTE SENATE BILL NO. 5364,
SUBSTITUTE SENATE BILL NO. 5423,
SUBSTITUTE SENATE BILL NO. 5428,
SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004,
SENATE JOINT RESOLUTION NO. 8205.

SECOND READING

HOUSE BILL NO. 1182, by Representatives Goodman, Ross, Kirby, Johnson, Hope, Hurst, Kelley, Maxwell, Frockt, Klippert, Lias, Miloscia, Moscoso, Pearson, Billig, Warnick and Ladenburg

Clarifying that each instance of an attempt to intimidate or tamper with a witness constitutes a separate violation for purposes of determining the unit of prosecution under tampering with or intimidating a witness statutes.

The measure was read the second time.

MOTION

On motion of Senator Harper, the rules were suspended, House Bill No. 1182 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senators McAuliffe and Prentice were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1182.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1182 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

Absent: Senator Regala

HOUSE BILL NO. 1182, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hunt, Ross, Appleton, Armstrong, Hurst and Stanford)

Establishing the intrastate building safety mutual aid system.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1406.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1406 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 3:03 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:59 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

April 8, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL 5083,

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

SENATE BILL 5584.
and the same are herewith transmitted.

policy recommendations resulting from the national institute of corrections review of prison safety.

BARBARA BAKER, Chief Clerk

POINT OF ORDER

MOTION

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

Senator Holmquist Newbry: "Thank you Mr. President. I believe that the second substitute offered is beyond the scope and object of the underlying bill and I have some arguments to offer on this Mr. President. Thank you Mr. President. The underlying bill implements policy recommendations from a review done by the National Institute of Corrections. By contrast the second substitute before us expands the ability of employee unions at the Department of Corrections to bargain over additional issues in their collective bargaining contracts, including employee safety relating to equipment, policy and protocol. The expansion of bargaining for DOC employees was a topic of a different bill which did not move out of committee.

SECOND READING

HOUSE BILL NO. 1031, by Representatives Armstrong, Orwall, Johnson, Crouse, Appleton, Condotta, Eddy, Clibborn, Haler, Ormsby, Nealey, Klippert, Miloscia, Fagan, Alexander, Taylor, Bailey, Angel, Finn, Warnick, Rodne, Orcutt, Walsh, Pearson, Green, McCoy, McCune, Schmick, Smith, Goodman, Asay, Ross, Blake, Short, Kagi, Hope, Takko, Kristiansen, Reykdal, Frockt, Ladenburg, Rolfes, Shea, Hunt, Hurst and Moeller

For these reasons I believe the second substitute offered is outside the scope and object of underlying bill and I respectfully request a ruling on this matter. Thank you Mr. President.

Requiring the county auditor to send voters a security envelope that conceals the ballot.

Senator Kohl-Wells spoke against the point of order.

The measure was read the second time.

MOTION

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1031 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

On motion of Senator Eide, further consideration of Senate Bill No. 5907 was deferred and the bill held its place on the second reading calendar.

Senator Pridemore spoke in favor of passage of the bill.

SECOND READING

The President declared the question before the Senate to be the final passage of House Bill No. 1031.

SUBSTITUTE HOUSE BILL NO. 1453, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Chandler, Blake, Van De Wege, Upthegrove, Stanford, Jinkins and Kretz)

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1031 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 1; Excused, 0.

Regarding commercial shellfish enforcement.

The measure was read the second time.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1453 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

Voting nay: Senators Baumgartner, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford and Stevens

MOTION

On motion of Senator White, Senator Hargrove was excused.

Absent: Senator Regala

HOUSE BILL NO. 1031, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1453.

SECOND READING

ROLL CALL

SENATE BILL NO. 5907, by Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell and Hargrove

The Secretary called the roll on the final passage of Substitute House Bill No. 1453 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Implementing the policy recommendations resulting from the national institute of corrections review of prison safety. Revised for 2nd Substitute: Addressing prison safety by implementing the

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray,

Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1453, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1133, by House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Goodman, Warnick, Rodne, Ladenburg and Maxwell)

Requiring massage practitioners to include their license numbers on advertising and display a copy of their license or make it available upon request.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1133 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1133.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1133 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1133, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1640, by Representatives Green, Hinkle, Cody and Moeller

Concerning respiratory care practitioners.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1640 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1640.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1640 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1640, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1874, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Dickerson, Hurst, Klippert, Pearson, Parker, Shea, Kenney, Angel, Kristiansen, Stanford, McCune and Ormsby)

Addressing police investigations of commercial sexual exploitation of children and human trafficking.

The measure was read the second time.

MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds increasing incidents of commercial sexual exploitation of children in our state, and further protection of victims require giving law enforcement agencies the tool to have a unified victim-centered police investigation approach to further protect victims by ensuring their safety by prosecuting traffickers. The one-party consent provision permitted for drug trafficking investigation passed in the comprehensive bill to facilitate police investigation and prosecution of drug trafficking crimes is a helpful tool to this end. The legislature also finds that exceptions should be allowed for minors employed for investigation when the minor is a victim and involves only electronic communication with the defendant.

Sec. 2. RCW 9.73.230 and 2005 c 282 s 17 are each amended to read as follows:

(1) As part of a bona fide criminal investigation, the chief law enforcement officer of a law enforcement agency or his or her designee above the rank of first line supervisor may authorize the interception, transmission, or recording of a conversation or communication by officers under the following circumstances:

(a) At least one party to the conversation or communication has consented to the interception, transmission, or recording;

(b) Probable cause exists to believe that the conversation or communication involves;

(i) The unlawful manufacture, delivery, sale, or possession with

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

intent to manufacture, deliver, or sell, controlled substances as defined in chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW; or

(ii) A party engaging in the commercial sexual abuse of a minor under RCW 9.68A.100, or promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102; and

(c) A written report has been completed as required by subsection (2) of this section.

(2) The agency's chief officer or designee authorizing an interception, transmission, or recording under subsection (1) of this section, shall prepare and sign a written report at the time of authorization indicating:

(a) The circumstances that meet the requirements of subsection (1) of this section;

(b) The names of the authorizing and consenting parties, except that in those cases where the consenting party is a confidential informant, the name of the confidential informant need not be divulged;

(c) The names of the officers authorized to intercept, transmit, and record the conversation or communication;

(d) The identity of the particular person or persons, if known, who may have committed or may commit the offense;

(e) The details of the particular offense or offenses that may have been or may be committed and the expected date, location, and approximate time of the conversation or communication; and

(f) Whether there was an attempt to obtain authorization pursuant to RCW 9.73.090(2) and, if there was such an attempt, the outcome of the attempt.

(3) An authorization under this section is valid in all jurisdictions within Washington state and for the interception of communications from additional persons if the persons are brought into the conversation or transaction by the nonconsenting party or if the nonconsenting party or such additional persons cause or invite the consenting party to enter another jurisdiction.

(4) The recording of any conversation or communication under this section shall be done in such a manner that protects the recording from editing or other alterations.

(5) An authorization made under this section is valid for no more than twenty-four hours from the time it is signed by the authorizing officer, and each authorization shall independently meet all of the requirements of this section. The authorizing officer shall sign the written report required under subsection (2) of this section, certifying the exact date and time of his or her signature. An authorization under this section may be extended not more than twice for an additional consecutive twenty-four hour period based upon the same probable cause regarding the same suspected transaction. Each such extension shall be signed by the authorizing officer.

(6) Within fifteen days after the signing of an authorization that results in any interception, transmission, or recording of a conversation or communication pursuant to this section, the law enforcement agency which made the interception, transmission, or recording shall submit a report including the original authorization under subsection (2) of this section to a judge of a court having jurisdiction which report shall identify (a) the persons, including the consenting party, who participated in the conversation, and (b) the date, location, and approximate time of the conversation.

In those cases where the consenting party is a confidential informant, the name of the confidential informant need not be divulged.

A monthly report shall be filed by the law enforcement agency with the administrator for the courts indicating the number of authorizations granted, the date and time of each authorization,

interceptions made, arrests resulting from an interception, and subsequent invalidations.

(7)(a) Within two judicial days of receipt of a report under subsection (6) of this section, the court shall make an ex parte review of the authorization(~~(, but not of the evidence,))~~ and shall make a determination whether the requirements of subsection (1) of this section were met. Evidence obtained as a result of the interception, transmission, or recording need not be submitted to the court. If the court determines that any of the requirements of subsection (1) of this section were not met, the court shall order that any recording and any copies or transcriptions of the conversation or communication be destroyed. Destruction of recordings, copies, or transcriptions shall be stayed pending any appeal of a finding that the requirements of subsection (1) of this section were not met.

(b) Absent a continuation under (c) of this subsection, six months following a determination under (a) of this subsection that probable cause did not exist, the court shall cause a notice to be mailed to the last known address of any nonconsenting party to the conversation or communication that was the subject of the authorization. The notice shall indicate the date, time, and place of any interception, transmission, or recording made pursuant to the authorization. The notice shall also identify the agency that sought the authorization and shall indicate that a review under (a) of this subsection resulted in a determination that the authorization was made in violation of this section provided that, if the confidential informant was a minor at the time of the recording or an alleged victim of commercial child sexual abuse under RCW 9.68A.100 through 9.68A.102 or 9.40.100, no such notice shall be given.

(c) An authorizing agency may obtain six-month extensions to the notice requirement of (b) of this subsection in cases of active, ongoing criminal investigations that might be jeopardized by sending the notice.

(8) In any subsequent judicial proceeding, evidence obtained through the interception or recording of a conversation or communication pursuant to this section shall be admissible only if:

(a) The court finds that the requirements of subsection (1) of this section were met and the evidence is used in prosecuting an offense listed in subsection (1)(b) of this section; or

(b) The evidence is admitted with the permission of the person whose communication or conversation was intercepted, transmitted, or recorded; or

(c) The evidence is admitted in a prosecution for a "serious violent offense" as defined in RCW 9.94A.030 in which a party who consented to the interception, transmission, or recording was a victim of the offense; or

(d) The evidence is admitted in a civil suit for personal injury or wrongful death arising out of the same incident, in which a party who consented to the interception, transmission, or recording was a victim of a serious violent offense as defined in RCW 9.94A.030.

Nothing in this subsection bars the admission of testimony of a party or eyewitness to the intercepted, transmitted, or recorded conversation or communication when that testimony is unaided by information obtained solely by violation of RCW 9.73.030.

(9) Any determination of invalidity of an authorization under this section shall be reported by the court to the administrative office of the courts.

(10) Any person who intentionally intercepts, transmits, or records or who intentionally authorizes the interception, transmission, or recording of a conversation or communication in violation of this section, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(11) An authorizing agency is liable for twenty-five thousand dollars in exemplary damages, in addition to any other damages authorized by this chapter or by other law, to a person whose

conversation or communication was intercepted, transmitted, or recorded pursuant to an authorization under this section if:

(a) In a review under subsection (7) of this section, or in a suppression of evidence proceeding, it has been determined that the authorization was made without the probable cause required by subsection (1)(b) of this section; and

(b) The authorization was also made without a reasonable suspicion that the conversation or communication would involve the unlawful acts identified in subsection (1)(b) of this section.

Sec. 3. RCW 9.73.210 and 1989 c 271 s 202 are each amended to read as follows:

(1) If a police commander or officer above the rank of first line supervisor has reasonable suspicion that the safety of the consenting party is in danger, law enforcement personnel may, for the sole purpose of protecting the safety of the consenting party, intercept, transmit, or record a private conversation or communication concerning:

(a) The unlawful manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell, controlled substances as defined in chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW; or

(b) Person(s) engaging in the commercial sexual abuse of a minor under RCW 9.68A.100, or promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(2) Before any interception, transmission, or recording of a private conversation or communication pursuant to this section, the police commander or officer making the determination required by subsection (1) of this section shall complete a written authorization which shall include (a) the date and time the authorization is given; (b) the persons, including the consenting party, expected to participate in the conversation or communication, to the extent known; (c) the expected date, location, and approximate time of the conversation or communication; and (d) the reasons for believing the consenting party's safety will be in danger.

(3) A monthly report shall be filed by the law enforcement agency with the administrator for the courts indicating the number of authorizations made under this section, the date and time of each authorization, and whether an interception, transmission, or recording was made with respect to each authorization.

(4) Any information obtained pursuant to this section is inadmissible in any civil or criminal case in all courts of general or limited jurisdiction in this state, except:

(a) With the permission of the person whose communication or conversation was intercepted, transmitted, or recorded without his or her knowledge;

(b) In a civil action for personal injury or wrongful death arising out of the same incident, where the cause of action is based upon an act of physical violence against the consenting party; or

(c) In a criminal prosecution, arising out of the same incident for a serious violent offense as defined in RCW 9.94A.030 in which a party who consented to the interception, transmission, or recording was a victim of the offense.

(5) Nothing in this section bars the admission of testimony of a participant in the communication or conversation unaided by information obtained pursuant to this section.

(6) The authorizing agency shall immediately destroy any written, transcribed, or recorded information obtained from an interception, transmission, or recording authorized under this section unless the agency determines there has been a personal injury or death or a serious violent offense which may give rise to a civil action or criminal prosecution in which the information may be admissible under subsection (4)(b) or (c) of this section.

(7) Nothing in this section authorizes the interception, recording, or transmission of a telephonic communication or conversation.

Sec. 4. RCW 9.68A.110 and 2010 c 289 s 17 and 2010 c 227 s 8 are each reenacted and amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100 through 9.68A.102, except for the purpose of facilitating an investigation where the minor is also the alleged victim and the:

(a) Investigation is authorized pursuant to RCW 9.73.230(1)(b)(ii) or 9.73.210(1)(b); or

(b) Minor's aid in the investigation involves only telephone or electronic communication with the defendant.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in chapter 227, Laws of 2010 is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, the state is not required to establish the identity of the alleged victim.

(6) In a prosecution under RCW 9.68A.070 or 9.68A.075, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher ~~(learning)~~ education; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

~~((=))~~ (7) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

NEW SECTION. **Sec. 5.** This act takes effect August 1, 2011."

Senator Regala spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1874.

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

MOTION

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

On page 1, line 2 of the title, after "trafficking;" strike the remainder of the title and insert "amending RCW 9.73.230 and 9.73.210; reenacting and amending RCW 9.68A.110; creating a new section; and providing an effective date."

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1874 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Delvin and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1874 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1874 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1874 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789, by House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Roberts and Miloscia)

Addressing accountability for persons driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.385 and 2010 c 269 s 1 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055. Beginning with incidents occurring on or after the effective date of this section, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a

day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

Sec. 2. RCW 46.61.502 and 2008 c 282 s 20 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) ~~The~~ The person has ever previously been convicted of:

(i) ~~V~~ehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a)(~~g~~);

(ii) ~~V~~ehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b)(~~g~~);

(iii) ~~A~~n out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; ~~or~~

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

Sec. 3. RCW 46.61.504 and 2008 c 282 s 21 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a)(~~g~~);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b)(~~g~~);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

Sec. 4. RCW 46.61.500 and 1990 c 291 s 1 are each amended to read as follows:

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment of not more than one year and by a fine of not more than five thousand dollars.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

Sec. 5. RCW 46.61.5249 and 1997 c 66 s 4 are each amended to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

Sec. 6. RCW 46.20.720 and 2010 c 269 s 3 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person. The court shall order any person participating in a deferred prosecution program under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance. The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition

interlock device if the person is convicted of a violation of RCW 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsections (4) and (5) of this section, the period of time of the restriction will be no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

(5) For a person required to install an ignition interlock device pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of the restriction shall be for six months and shall be subject to subsection (4) of this section.

Sec. 7. RCW 46.61.5055 and 2010 c 269 s 4 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine

the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds

that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; ~~((€))~~

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5)(a) The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area;

(ii) The person does not operate a vehicle; or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license, and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit

to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. Alcohol monitoring ordered under this subsection must be for the period of the mandatory license suspension or revocation. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(g) The period of time for which ignition interlock use (~~or alcohol monitoring~~) is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (g)(ii) of this subsection, a period of ten years.

(h) Beginning with incidents occurring on or after the effective date of this section, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (5)(h), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

Sec. 8. RCW 10.05.140 and 2004 c 95 s 1 are each amended to read as follows:

As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition on any alcohol-dependency based case, the court shall also order the installation of an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720((2))~~(3)~~(3) (a), (b), and (c). As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

Sec. 9. RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~(3);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~(3);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or ~~((9.94A.605))~~ 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055. All enhancements under this subsection shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728((4))(3);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will

seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

NEW SECTION. Sec. 10. A new section is added to chapter 2.28 RCW to read as follows:

(1) Counties may establish and operate DUI courts.

(2) For the purposes of this section, "DUI court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism of impaired driving among nonviolent, alcohol abusing offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic testing for alcohol use and, if applicable, drug use; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a DUI court program must first:

(i) Exhaust all federal funding that is available to support the operations of its DUI court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for DUI court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for DUI court operations and associated services. However, until June 30, 2014, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a DUI court established as of January 1, 2011.

(b) Any county that establishes a DUI court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The DUI court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from alcohol treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030, vehicular homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or an equivalent out-of-state offense; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) That is vehicular homicide or vehicular assault;

(D) During which the defendant used a firearm; or

(E) During which the defendant caused substantial or great bodily harm or death to another person.

Sec. 11. RCW 2.28.190 and 2005 c 504 s 502 are each amended to read as follows:

Any county that has established a DUI court, drug court, and a mental health court under this chapter may combine the functions of ~~(both)~~ these courts into a single therapeutic court.

Sec. 12. RCW 46.61.5054 and 1995 c 398 s 15 and 1995 c 332 s 13 are each reenacted and amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 46.61.5051 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a ~~((one))~~ two hundred ~~((twenty-five))~~ dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522.

This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol for grants and activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the ~~((one))~~ two hundred ~~((twenty-five))~~ dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and, subject to subsection (4) of this section, one hundred seventy-five dollars of the fee must be distributed as follows:

(a) Forty percent shall be subject to distribution under RCW 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

(b) The remainder of the fee shall be forwarded to the state treasurer who shall, through June 30, 1997, deposit: Fifty percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and fifty percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs. Effective July 1, 1997, the remainder of the fee shall be forwarded to the state treasurer who shall deposit: Fifteen percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and eighty-five percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(3) Twenty-five dollars of the fee assessed under subsection (1) of this section must be distributed to the highway safety account to be used solely for funding Washington traffic safety commission grants to reduce statewide collisions caused by persons driving under the influence of alcohol or drugs. Grants awarded under this subsection may be for projects that encourage collaboration with other community, governmental, and private organizations, and that utilize innovative approaches based on best practices or proven strategies supported by research or rigorous evaluation. Grants recipients may include, for example:

(a) DUI courts; and

(b) Jurisdictions implementing the victim impact panel registries under RCW 46.61.5152 and section 15 of this act.

(4) If the court has suspended payment of part of the fee pursuant to subsection (1)(b) or (c) of this section, amounts collected shall be distributed proportionately.

(5) This section applies to any offense committed on or after July 1, 1993.

Sec. 13. RCW 46.61.5056 and 1995 c 332 s 14 are each amended to read as follows:

(1) A person subject to alcohol assessment and treatment under RCW 46.61.5055 shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a

qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the court and the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under RCW 46.61.5055, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section.

Sec. 14. RCW 46.61.5152 and 2006 c 73 s 17 are each amended to read as follows:

In addition to penalties that may be imposed under RCW 46.61.5055, the court may require a person who is convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a nonfelony violation of RCW 46.61.502 or 46.61.504, to attend an educational program, such as a victim impact panel, focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants. The victim impact panel program must meet the minimum standards established under section 15 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 10.01 RCW to read as follows:

(1) The Washington traffic safety commission may develop and maintain a registry of qualified victim impact panels. When imposing a requirement that an offender attend a victim impact panel under RCW 46.61.5152, the court may refer the offender to a victim impact panel that is listed in the registry. The Washington traffic safety commission may consult with victim impact panel organizations to develop and maintain a registry.

(2) To be listed on the registry, the victim impact panel must meet the following minimum standards:

(a) The victim impact panel must address the effects of driving while impaired on individuals and families and address alternatives to drinking and driving and drug use and driving;

(b) The victim impact panel should strive to have at least two different speakers, one of whom is a victim survivor of an impaired driving crash, to present their stories in person. A victim survivor may be the panel facilitator. The victim impact panel should be a minimum of sixty minutes of presentation, not including registration and administration time.

(c) The victim impact panel shall have policies and procedures to recruit, screen, train, and provide feedback and ongoing support to the panelists. The panel shall take reasonable steps to verify the authenticity of each panelist's story;

(d) The victim impact panel shall charge a reasonable fee to all persons required to attend, unless otherwise ordered by the court;

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

(e) The victim impact panel shall have a policy to prohibit admittance of anyone under the influence of alcohol or drugs, or anyone whose actions or behavior are otherwise inappropriate. The victim impact panel may institute additional admission requirements;

(f) The victim impact panel shall maintain attendance records for at least five years;

(g) The victim impact panel shall make reasonable efforts to use a facility that meets standards established by the Americans with disabilities act;

(h) The victim impact panel may provide referral information to other community services; and

(i) The victim impact panel shall have a designated facilitator who is responsible for the compliance with these minimum standards and who is responsible for maintaining appropriate records and communication with the referring courts and probationary departments regarding attendance or nonattendance." Senator Kline spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King to the committee striking amendment be adopted:

On page 33, after line 25 of the amendment, insert the following:

"**NEW SECTION, Sec. 16.** Sections 1 through 9 of this act take effect September 1, 2011."

Senators Haugen and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 33, after line 25 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1789.

The motion by Senator Haugen carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Engrossed Second Substitute House Bill No. 1789.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "drugs;" strike the remainder of the title and insert "amending RCW 46.20.385, 46.61.502, 46.61.504, 46.61.500, 46.61.5249, 46.20.720, 46.61.5055, 10.05.140, 9.94A.533, 2.28.190, 46.61.5056, and 46.61.5152; reenacting and amending RCW 46.61.5054; adding a new section to chapter 2.28 RCW; adding a new section to chapter 10.01 RCW; and prescribing penalties."

On page 34, line 1 of the title amendment, after "RCW;" insert "providing an effective date;"

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Second Substitute House Bill No. 1789 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Fraser, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1789 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1789 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1822, by House Committee on Higher Education (originally sponsored by Representatives Kenney, Parker, Seaquist, Pettigrew, Dickerson and Zeiger)

Establishing the first nonprofit online university.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 1822 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Hill spoke in favor of passage of the bill.

MOTION

On motion of Senator Pflug, Senator Swecker was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1822.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1822 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist

Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Sheldon, Shin, Stevens, Tom and Zarelli

Voting nay: Senators Baxter, Conway, Kohl-Welles, Murray, Regala, Schoesler and White

Excused: Senators Prentice and Swecker

SUBSTITUTE HOUSE BILL NO. 1822, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1148, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz)

Concerning the establishment of a license limitation program for the harvest and delivery of spot shrimp originating from coastal or offshore waters into the state.

The measure was read the second time.

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1148 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Regala was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1148.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1148 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senators Prentice, Regala and Swecker

SUBSTITUTE HOUSE BILL NO. 1148, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5844, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon and Hewitt)

Concerning financing local government infrastructure. Revised for 1st Substitute: Financing local government infrastructure.

MOTION

On motion of Senator Kilmer, Substitute Senate Bill No. 5844 was substituted for Senate Bill No. 5844 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Fain be adopted:

On page 7, after line 31, insert the following:

(vii) Flood levies. State assistance for flood levy repairs and improvements must support projects that will achieve the greatest reduction of the risk to public safety and property from levies at risk of failure due to changes in flood water flows and deterioration of the levy structural capacity. State assistance is not intended to supplant the responsibility of local government and property owners benefiting from levies to adequately fund the routine repair and maintenance of levies. Jurisdictions accepting state assistance for flood levies must demonstrate compliance with the responsibility to adequately fund levy routine repair and maintenance or agree to a plan to meet that responsibility. Jurisdictions seeking state assistance for levies must demonstrate adequate land use policies that prevent inappropriate development in flood plains, prevent encroachment upon flood levies, and prevent the inappropriate use of flood levies. Flood levy projects must be evaluated and prioritized against these policy objectives by the department of ecology

Senators Keiser and Fain spoke in favor of adoption of the amendment.

Senator Honeyford spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Fain on page 7, after line 31 to Substitute Senate Bill No. 5844.

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

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 5844 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5844.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5844 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom, White and Zarelli

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Pflug, Roach, Schoesler and Stevens

Excused: Senator Prentice

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Green, Moeller, Rolfes, Hasegawa, Pettigrew, Sells, Ryu, Appleton, Hunt, Seaquist, Miloscia, Ormsby and Roberts)

Concerning for hire vehicles and for hire vehicle operators.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 51.12 RCW to read as follows:

The legislature finds that taxicab, limousine, and other for hire vehicle operators are at significant risk of injury due to work-related accidents or crimes such as robbery that may not be covered by standard vehicle insurance policies. Since almost all taxicab, limousine, and other for hire vehicle business operations are independent small business franchises, their owners or operators may opt out of industrial insurance coverage without full consideration for the risk of financial exposure to themselves or to their businesses. As a result, health care may be provided to them at public expense or not at all, and erroneous claims may be made by health care providers for insurance coverage, against the state department of labor and industries, private businesses, or the taxicab associations in which certain municipalities require participation. Most for hire vehicle operators do not enjoy the benefit of the broad public policy embodied in this title that mandates industrial insurance protection for workers. The legislature therefore declares that all taxicab, limousine, for hire vehicle businesses, and for hire vehicle operators are subject to mandatory industrial insurance coverage under this title.

NEW SECTION. Sec. 2. A new section is added to chapter 51.12 RCW to read as follows:

(1) Any business that owns and operates a for hire vehicle licensed under chapter 46.72 RCW, a limousine under chapter 46.72A RCW, or a taxicab under chapter 81.72 RCW and the for hire operator or chauffeur of such vehicle is within the mandatory coverage of this title.

(2) Any business that as owner or agent leases a for hire vehicle licensed under chapter 46.72 RCW, a limousine under chapter 46.72A RCW, or a taxicab under chapter 81.72 RCW to a for hire operator or a chauffeur and the for hire operator or chauffeur of such vehicle is within the mandatory coverage of this title.

(3) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Chauffeur" has the same meaning as provided in RCW 46.04.115; and

(b) "For hire operator" means a person who is operating a vehicle for the purpose of carrying persons for compensation.

NEW SECTION. Sec. 3. A new section is added to chapter 51.16 RCW to read as follows:

(1) For the purposes of section 2 of this act:

(a) By no later than January 1, 2012, the department must determine by rule the basis for industrial insurance premiums for: (i) Any business that owns and operates for hire, limousine, or taxicab vehicles; and (ii) any business that owns and leases for hire, limousine, or taxicab vehicles to a business operating such vehicle; and

(b) Not more than ninety days after the department has determined the basis for industrial insurance premiums by rule under (a) of this subsection, the department must assess such premiums on: (i) Any business that owns and operates for hire, limousine, or taxicab vehicles; and (ii) any business that owns and leases for hire, limousine, or taxicab vehicles to a business operating such vehicle.

(2) In determining the basis under this section, the department must consider:

(a) The unique economic structures of the taxicab, for hire vehicle, and limousine industries;

(b) The difficulty of equitably assessing industrial insurance premiums on classes of businesses that utilize both employer/employee and independent contractor business models;

(c) The economic impact on businesses of a rate and assessment alternative, such as a flat rate and assessment levied on a per vehicle or a miles driven basis, compared to that of an assessment based on hours worked;

(d) The department's costs and efficiency of administration;

(e) The cost to businesses and covered workers; and

(f) Anticipated effectiveness in implementing mandatory industrial insurance coverage of for hire vehicle operators as provided in section 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 51.12 RCW to read as follows:

(1) In order to assist the department with controlling costs related to the self-monitoring of industrial insurance claims by independent owner-operated for hire vehicle, limousine, and taxicab businesses, the department may appoint a panel of individuals with for hire vehicle, limousine, or taxicab transportation industry experience and expertise to advise the department.

(2) The owner of any for hire, limousine, or taxicab vehicle subject to mandatory industrial insurance pursuant to section 2 of this act is eligible for inclusion in a retrospective rating program authorized and established pursuant to chapter 51.18 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 46.72 RCW to read as follows:

(1) A for hire vehicle certificate issued pursuant to this chapter must be suspended or revoked and may not be renewed in the event of failure to pay the mandatory for hire vehicle operator industrial insurance premium as charged by the department of labor and industries under sections 2 and 3 of this act.

(2)(a) A for hire vehicle and its operator must have evidence of payment in good standing with the department of labor and industries of the for hire vehicle operator industrial insurance premium, whenever the for hire vehicle is operated on public streets and highways for compensation.

(b) Failure to produce evidence of payment of the for hire vehicle insurance premium upon demand by a law enforcement officer or other government agent acting under the authority of this chapter is a civil infraction punishable by a fine of not more than two hundred fifty dollars per infraction separately upon both the for hire vehicle owner and the for hire vehicle operator if they are not one and the same.

(3) For hire vehicle license suspension or revocation and the administration thereof for failure to pay the mandatory industrial insurance premium must be at the direction and expense of the department of labor and industries.

(4) The department of labor and industries and the department of licensing may adopt rules and enter into cooperative agreements to implement this section.

NEW SECTION. Sec. 6. A new section is added to chapter 46.72A RCW to read as follows:

(1) A business license and vehicle certificate issued pursuant to RCW 46.72A.050 must be suspended or revoked and must not be renewed in the event of failure to pay the mandatory for hire vehicle operator industrial insurance premium as charged by the department of labor and industries under sections 2 and 3 of this act.

(2)(a) A limousine and its chauffeur must have evidence of payment in good standing with the department of labor and industries of the for hire vehicle operator industrial insurance premium, whenever the limousine is operated on public streets and highways for compensation.

(b) Failure to produce evidence of payment of the for hire vehicle insurance premium upon demand by a law enforcement officer or other government agent acting under the authority of this chapter is a civil infraction punishable by a fine of not more than two hundred fifty dollars per infraction separately upon both the limousine vehicle owner and the limousine chauffeur if they are not one and the same.

(3) Business license and vehicle certificate suspension or revocation and the administration thereof for failure to pay the mandatory industrial insurance premium must be at the direction and expense of the department of labor and industries.

(4) The department of labor and industries and the department of licensing may adopt rules and enter into cooperative agreements to implement this section.

NEW SECTION. Sec. 7. A new section is added to chapter 81.72 RCW to read as follows:

(1) A license issued pursuant to this chapter must be suspended or revoked and may not be renewed in the event of failure to pay the mandatory for hire vehicle operator industrial insurance premium as charged by the department of labor and industries under sections 2 and 3 of this act.

(2)(a) A taxicab vehicle and its operator must have evidence of payment in good standing with the department of labor and industries of the for hire vehicle operator industrial insurance premium, whenever the taxicab vehicle is operated on public streets and highways for compensation.

(b) Failure to produce evidence of payment of the for hire vehicle insurance premium upon demand by a law enforcement officer or other government agent acting under the authority of this chapter is a civil infraction punishable by a fine of not more than two hundred fifty dollars per infraction separately upon both the taxicab vehicle owner and the taxicab vehicle operator if they are not one and the same.

(3) Taxicab vehicle license suspension or revocation and the administration thereof for failure to pay the mandatory industrial insurance premium must be at the direction and expense of the department of labor and industries.

(4)(a) The department of labor and industries, the department of licensing, cities, towns, counties, and port districts may enter into cooperative agreements to implement this section.

(b) The department of licensing and the department of labor and industries may adopt rules to implement this section.

(c) Cities, towns, counties, and port districts may take legislative action to implement this section.

NEW SECTION. Sec. 8. A new section is added to chapter 81.72 RCW to read as follows:

(1) Any city, town, county, or port district setting the rates charged for taxicab services under this chapter must adjust rates to accommodate changes in the cost of industrial insurance or in other industry-wide costs.

(2) Any business that as owner leases a taxicab licensed under this chapter to a for hire operator must make a reasonable effort to train the for hire operator in motor vehicle operation and safety requirements and monitor operator compliance. Monitoring operator compliance may include the use of vehicle operator monitoring cameras.

NEW SECTION. Sec. 9. Except for section 3 of this act, this act takes effect January 1, 2012."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 1367.

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

MOTION

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

On page 1, line 2 of the title, after "operators;" strike the remainder of the title and insert "adding new sections to chapter 51.12 RCW; adding a new section to chapter 51.16 RCW; adding a new section to chapter 46.72 RCW; adding a new section to chapter 46.72A RCW; adding new sections to chapter 81.72 RCW; creating a new section; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1367 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

MOTION

On motion of Senator Hobbs, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1367 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1367 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Brown, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Hewitt, Holmquist Newbry, Roach and Stevens

Absent: Senator Chase

Excused: Senator Hargrove

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator White, the rules were suspended, Substitute House Bill No. 1524 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1524.

SECOND READING

HOUSE BILL NO. 1669, by Representatives Santos, Parker, Dammeier, McCoy, Kenney, Hasegawa, Moscoso and Maxwell

Regarding the educational opportunity gap.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1669 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

Senator Tom spoke on final passage of the bill.

Senators Roach and Schoesler spoke against passage of the bill.

MOTION

On motion of Senator Eide, further consideration of House Bill No. 1669 was deferred and the bill held its place on the third reading calendar.

PERSONAL PRIVILEGE

Senator Parlette: "Thank you Mr. President. Since we're talking about education this seems appropriate that I share with you that today I got a call from the Principal of Bridgeport High School. So, for those of you who don't know where Bridgeport Washington is, if you go through Lake Chelan and go about twenty-six miles north to the little town of Brewster, you go across the river and there is the town of Bridgeport. Anyway, there's about two thousand people that live in Bridgeport. This is a small community in Douglas County. So Bridgeport received word today from the White House and from the United States Department of Education that they are one of six high schools selected as finalists for this year's 'Race to the top' high school commencement challenge. There the only rural school. They're the only school in Washington State. Other schools are in cities like Pittsburgh, San Diego and other large districts. They will now submit a video on line to promote their high school for an online vote. The video will be featured on the White House's website with five other schools and whoever's the winner President Obama will deliver the commencement address at that school this spring. So, once we know about this video maybe you would like to vote and select Bridgeport High School. Thank you Mr. President."

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1524, by House Committee on Education (originally sponsored by Representative Orwall)

Recognizing the international baccalaureate diploma.

The measure was read the second time.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1524 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford and Morton

Absent: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1524, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator White, Senators Chase and Kline were excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1728, by House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Green, Goodman, Kagi and Kenney)

Requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises.

The measure was read the second time.

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1728 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Roach spoke against passage of the bill.

Senator Sheldon spoke on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1728.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1728 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Regala and Roach

Excused: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1728, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Senator Eide moved to adjourn until 9:00 a.m. Saturday, April 9, 2011.

MOTION

On motion of Senator Eide, the motion to adjourn was withdrawn.

MOTION

Senator Murray having voted on the prevailing side, moved that the rules be suspended and that the Senate immediately

reconsider the vote by which Engrossed Substitute Senate Bill No. 5844 passed the Senate earlier in the day.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate reconsider the vote by which Engrossed Substitute Senate Bill No. 5844 passed the Senate.

The motion by Senator Murray carried and the Senate proceeded to reconsider the vote by which Engrossed Substitute Senate Bill No. 5844 passed the Senate.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5844 was deferred and the bill held its place on the third reading calendar.

MOTION

At 6:51 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Saturday, April 9, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1031	Second Reading	23	Second Reading	41
	Third Reading Final Passage	23	Third Reading Final Passage	42
1133-S	Second Reading	24	1738-S2	
	Third Reading Final Passage	24	Introduction & 1 st Reading	1
1148-S	Second Reading	38	1789-S2	
	Third Reading Final Passage	38	Other Action	37
1170-S	Other Action	17	Second Reading	27, 37
	Second Reading	12, 15	Third Reading Final Passage	37
	Third Reading Final Passage	17	1790-S	
1182	Second Reading	22	Other Action	4
	Third Reading Final Passage	22	Second Reading	3, 4
1188-S	Other Action	21	Third Reading Final Passage	5
	Second Reading	18	1793-S	
	Third Reading Final Passage	21	Other Action	11
1218-S	Second Reading	3	Second Reading	9, 11
	Third Reading Final Passage	3	Third Reading Final Passage	12
1237-S	Second Reading	7	1822-S	
	Third Reading Final Passage	7	Second Reading	37
1277-S	Introduction & 1 st Reading	1	Third Reading Final Passage	37
1290	Other Action	6	1874-S	
	Second Reading	5	Other Action	27
	Third Reading Final Passage	6	Second Reading	24
1367-S	Other Action	40	Third Reading Final Passage	27
	Second Reading	39	1953	
	Third Reading Final Passage	40	Second Reading	8
1406-S	Second Reading	22	Third Reading Final Passage	8
	Third Reading Final Passage	22	2017-S	
1431-S	Other Action	18	Messages	1
	Second Reading	17	4004	
	Third Reading Final Passage	18	Second Reading	6
1449-S	Messages	1	Third Reading Final Passage	6
1453-S	Second Reading	23	5083	
	Third Reading Final Passage	23	Messages	22
1454	Second Reading	5	5359-S	
	Third Reading Final Passage	5	Messages	1
1520	Second Reading	5	President Signed	22
	Third Reading Final Passage	5	5364-S	
1524-S	Second Reading	41	Messages	1
	Third Reading Final Passage	41	President Signed	22
1636-S	Second Reading	8	5423-S	
	Third Reading Final Passage	8	Messages	1
1640	Second Reading	24	President Signed	22
	Third Reading Final Passage	24	5428-S	
1669	Second Reading	41	Messages	1
1728-S			President Signed	22
			5584	
			Messages	23
			5844	
			Second Reading	38
			5844-S	
			Other Action	42
			Second Reading	38
			Third Reading Final Passage	39
			5907	
			Second Reading	23
			5925	
			Introduction & 1 st Reading	1
			5926	
			Introduction & 1 st Reading	1
			Other Action	2
			8004-S	
			Messages	1
			President Signed	22
			8205	
			Messages	1
			President Signed	22

EIGHTY NINTH DAY, APRIL 8, 2011

2011 REGULAR SESSION

8215		9049 Addison Jacobs	
Second Reading	3	Confirmed	8
8215-S		9071 Cathy McAbee	
Second Reading	3	Confirmed	9
Third Reading Final Passage	3	9093 Jada Rupley	
8646		Confirmed	2
Adopted	7	PRESIDENT OF THE SENATE	
Introduced	7	Intro. Special Guests, Camp Fire USA.....	7
9014 James Carvo		Remarks by the President.....	2
Confirmed	3	WASHINGTON STATE SENATE	
9040 Harold Hanson		Personal Privilege, Senator Parlette	41
Confirmed	2	Point of Order, Senator Holmquist Newbry	23