

TWENTY SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 6, 2012

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 with the exception of Senators Hewitt, Hill, Holmquist Newbry and Morton.

The Sergeant at Arms Color Guard consisting of Senator Chase and Senator Regala, presented the Colors. Senator Kline 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 5, 2012

MR. PRESIDENT:

The House has passed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 2127.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 5, 2012

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 2822,

SUBSTITUTE HOUSE BILL NO. 2828.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 5, 2012

MR. PRESIDENT:

The House has passed:

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2565.

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 6637 by Senators Hobbs, Kline, Harper, Frockt, Pridemore, Hatfield, Keiser, Kohl-Welles, Haugen and Conway

AN ACT Relating to social networking accounts and profiles; adding new sections to chapter 49.44 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

2E2SHB 2565 by House Committee on Ways & Means (originally sponsored by Representatives Kirby, Harris, Dammeier, Walsh, Orwall, Kelley, Moscoso and Zeiger)

AN ACT Relating to persons who operate a roll-your-own cigarette machine at retail establishments; amending RCW 82.24.010, 82.24.030, 82.24.035, 82.24.050, 82.24.060, 82.24.110, 82.24.120, 82.24.180, 82.24.295, 82.24.500, and 82.24.530; reenacting and amending RCW 82.24.130; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2822 by Representative Hunter

AN ACT Relating to local sales and use tax account deposits and distributions; and amending RCW 82.14.050.

Referred to Committee on Ways & Means.

SHB 2828 by House Committee on Ways & Means (originally sponsored by Representative Hunter)

AN ACT Relating to removing the requirement that the department of social and health services or the department of early learning take appropriate action to establish or enforce support obligations whenever it receives an application for subsidized child care services or working connections child care services; amending RCW 74.20.040 and 74.20.330; providing an effective date; and declaring an emergency.

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 Substitute House Bill No. 2828 which was placed on the second reading calendar.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

2ESHB 2127 by House Committee on Ways & Means (originally sponsored by Representative Hunter)

AN ACT Relating to fiscal matters; amending RCW 28B.15.067, 38.52.540, 41.06.560, 43.07.129, 43.17.390, 43.30.720, 43.88.110, 74.48.090, 76.04.610, 77.12.201, 77.12.203, 77.95.090, 79.22.010, 79.22.040, 79.64.100, 79.105.150, 79A.25.200, 86.26.007, and 90.48.390;

amending 2012 c 86 (ESHB 2190) (uncodified); amending 2011 2nd sp.s. c 9 ss 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 128, 129, 130, 131, 126, 127, 132, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 401, 402, 501, 502, 503, 504, 505, 507, 508, 509, 510, 511, 513, 514, 515, 601, 602, 603, 604, 605, 606, 607, 608, 609, 612, 613, 614, 615, 616, 617, 701, 702, and 801 (uncodified); amending 2011 1st sp.s. c 50 ss 103, 104, 106, 105, 108, 112, 115, 117, 120, 124, 128, 132, 133, 137, 136, 142, 147, 151, 149, 214, 516, 616, 715, 801, 802, 803, 910, 920, 921, and 922 (uncodified); amending 2011 1st sp.s. c 7 s 11 (uncodified); amending 2010 c 23 s 205 (uncodified); reenacting and amending RCW 2.68.020, 70.105D.070, and 79.64.040; adding new sections to 2011 1st sp.s. c 50 (uncodified); repealing 2011 2nd sp.s. c 9 ss 610, 611, 705, 706, 707, and 708 (uncodified); repealing 2011 1st sp.s. c 50 ss 709 and 710 (uncodified); making appropriations; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Supplemental Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Ericksen, Senators Benton, Fain, Hewitt, Hill, Holmquist Newbry, Morton, Pflug, Roach and Zarelli were excused.

MOTION

At 10:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:53 a.m. by President Owen.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2828, by House Committee on Ways & Means (originally sponsored by Representative Hunter)

Removing the requirement that the department of social and health services or the department of early learning take appropriate action to establish or enforce support obligations whenever it receives an application for subsidized child care services or working connections child care services.

The measure was read the second time.

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 2828 was advanced to third reading, the

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

Senator Regala 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. 2828.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2828 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Hewitt, Hill, Holmquist Newbry and Morton

SUBSTITUTE HOUSE BILL NO. 2828, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

THIRD READING

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6204, by Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

Modifying community supervision provisions.

The bill was read on Third Reading.

MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Second Substitute Senate Bill No. 6204 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6204, by Senate Committee on Ways & Means (originally sponsored by Senator Hargrove)

Modifying community supervision provisions.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.631 and 2009 c 390 s 1 are each amended to read as follows:

TWENTY SIXTH DAY, APRIL 6, 2012

2012 1ST SPECIAL SESSION

(1) If an offender violates any condition or requirement of a sentence, a community corrections officer may arrest or cause the arrest of the offender without a warrant, pending a determination by the court or ~~((a department of corrections hearing officer))~~ by the department. If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a community corrections officer may require an offender to submit to a search and seizure of the offender's person, residence, automobile, or other personal property.

(2) For the safety and security of department staff, an offender may be required to submit to pat searches, or other limited security searches, by community corrections officers, correctional officers, and other agency approved staff, without reasonable cause, when in or on department premises, grounds, or facilities, or while preparing to enter department premises, grounds, facilities, or vehicles. Pat searches of offenders shall be conducted only by staff who are the same gender as the offender, except in emergency situations.

(3) A community corrections officer may also arrest an offender for any crime committed in his or her presence. The facts and circumstances of the conduct of the offender shall be reported by the community corrections officer, with recommendations, to the court ~~((or department of corrections hearing officer)),~~ local law enforcement, or local prosecution for consideration of new charges. The community corrections officer's report shall serve as the notice that the department will hold the offender for not more than three days from the time of such notice for the new crime. This does not affect the department's authority under RCW 9.94A.737.

If a community corrections officer arrests or causes the arrest of an offender under this section, the offender shall be confined and detained in the county jail of the county in which the offender was taken into custody, and the sheriff of that county shall receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the community corrections officer, and such offenders shall not be released from custody on bail or personal recognizance, except upon approval of the court or authorized department staff, pursuant to a written order.

Sec. 2. RCW 9.94A.633 and 2010 c 258 s 1 and 2010 c 224 s 12 are each reenacted and amended to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned by the court with up to sixty days' confinement for each violation or by the department with up to thirty days' confinement as provided in RCW 9.94A.737.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other community-based sanctions ((available in the community)).

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the parenting sentencing alternative set out in RCW 9.94A.655, the offender may be sanctioned in accordance with that section.

(d) If the offender was sentenced under the special sex offender sentencing alternative set out in RCW 9.94A.670, the suspended

sentence may be revoked and the offender committed to serve the original sentence of confinement.

(e) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

(f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(3) If a probationer is being supervised by the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be sanctioned pursuant to subsection (1) of this section. The department shall have authority to issue a warrant for the arrest of an offender who violates a condition of community custody, as provided in RCW 9.94A.716. Any sanctions shall be imposed by the department pursuant to RCW 9.94A.737. ~~((The department shall provide a copy of the violation hearing report to the sentencing court in a timely manner.))~~ Nothing in this subsection is intended to limit the power of the sentencing court to respond to a probationer's violation of conditions.

(4) The parole or probation of an offender who is charged with a new felony offense may be suspended and the offender placed in total confinement pending disposition of the new criminal charges if:

(a) The offender is on parole pursuant to RCW 9.95.110(1); or

(b) The offender is being supervised pursuant to RCW 9.94A.745 and is on parole or probation pursuant to the laws of another state.

Sec. 3. RCW 9.94A.704 and 2009 c 375 s 6 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a

system using radio frequency or active or passive global positioning system technology.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

~~((9))~~ (10)(a) When a sex offender has been sentenced pursuant to RCW 9.94A.507, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (i) The crime of conviction;
- (ii) The offender's risk of reoffending;
- (iii) The safety of the community.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

~~((10))~~ (11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

Sec. 4. RCW 9.94A.706 and 2008 c 231 s 11 are each amended to read as follows:

(1) No offender sentenced to a term of community custody under the supervision of the department may own, use, or possess firearms ((or) ammunition, or explosives. ((Offenders who own, use, or are found to be in)) An offender's actual or constructive possession of firearms ((or) ammunition, or explosives shall be ((subject to the violation process and)) reported to local law enforcement or local prosecution for consideration of new charges and subject to sanctions under RCW 9.94A.633((, 9.94A.716, and)) or 9.94A.737.

(2) For the purposes of this section:

(a) "Constructive possession" ((as used in this section)) means

the power and intent to control the firearm ((or) ammunition, or explosives.

(b) "Explosives" has the same definition as in RCW 46.04.170.

(c) "Firearm" ((as used in this section)) has the same definition as in RCW 9.41.010.

Sec. 5. RCW 9.94A.714 and 2008 c 231 s 16 are each amended to read as follows:

~~(1) ((If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing pursuant to RCW 9.94A.737 for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.~~

~~—(2))~~ The department may work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for ((low risk)) offenders who violate the terms of their community custody.

~~((3))~~ (2) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving ((low risk)) offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

Sec. 6. RCW 9.94A.716 and 2008 c 231 s 21 are each amended to read as follows:

(1) The secretary may issue warrants for the arrest of any offender who violates a condition of community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation pursuant to RCW 9.94A.633.

(2) A community corrections officer, if he or she has reasonable cause to believe an offender has violated a condition of community custody, may suspend the person's community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community custody status.

(3) If an offender has been arrested by the department for a new felony offense while under community custody, the ((department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier)) facts and circumstances of the conduct of the offender shall be reported by the community corrections officer to local law enforcement or local prosecution for consideration of new charges. The community corrections officer's report shall serve as notice that the department will hold the offender in total confinement for not more than three days from the time of such notice for the new crime. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(4) A violation of a condition of community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.

TWENTY SIXTH DAY, APRIL 6, 2012

2012 1ST SPECIAL SESSION

Sec. 7. RCW 9.94A.737 and 2008 c 231 s 20 are each amended to read as follows:

(1) If an offender is accused of violating any condition or requirement of community custody, ~~(he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as)~~ the department shall address the violation behavior. The department may hold offender disciplinary proceedings (and shall) not (be) subject to chapter 34.05 RCW. The department shall (develop hearing procedures and a structure of graduated sanctions) notify the offender in writing of the violation process.

(2) ~~(The hearing procedures required under subsection (1) of this section shall be developed by rule and include the following:)~~

(a) The offender's violation behavior shall determine the sanction the department imposes. The department shall adopt rules creating a structured violation process that includes presumptive sanctions, aggravating and mitigating factors, and definitions for low level violations and high level violations.

(b)(i) The department must define aggravating factors that indicate the offender may present a current and ongoing foreseeable risk and which therefore, elevate an offender's behavior to a high level violation process.

(ii) The state and its officers, agents, and employees may not be held criminally or civilly liable for a decision to elevate or not to elevate an offender's behavior to a high level violation process under this subsection unless the state or its officers, agents, and employees acted with reckless disregard.

(3) The department may intervene when an offender commits a low level violation as follows:

(a) For a first low level violation, the department may sanction the offender to one or more nonconfinement sanctions.

(b) For a second or subsequent low level violation, the department may sanction the offender to not more than three days in total confinement.

(i) The department shall develop rules to ensure that each offender subject to a short term confinement sanction is provided the opportunity to respond to the alleged violation prior to imposition of total confinement.

(ii) The offender may appeal the short term confinement sanction to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The offender's appeal must be in writing and hand-delivered to department staff, or postmarked, within seven days after the sanction is imposed.

(4) If an offender is accused of committing a high level violation, the department may sanction the offender to not more than thirty days in total confinement per hearing.

(a) The offender is entitled to a hearing prior to the imposition of sanctions; and

(b) The offender may be held in total confinement pending a sanction hearing. Prehearing time served must be credited to the offender's sanction time.

(5) The department shall adopt rules creating hearing procedures for high level violations. The hearings are offender disciplinary proceedings and are not subject to chapter 34.05 RCW. The procedures shall include the following:

(a) (Hearing officers shall report through a chain of command separate from that of community corrections officers;

~~(b))~~ The department shall provide the offender with written notice of the alleged violation(s) and the evidence (relied upon, and the reasons the particular sanction was imposed) supporting it. The notice (shall) must include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision (of the department);

~~((c) The hearing shall be held)) (b) Unless (waived by) the offender waives the right to a hearing, the department shall hold a hearing, and shall (be) record it electronically ((recorded)). For offenders not in total confinement, the department shall hold a hearing ((shall be held)) within fifteen ((working)) business days, but not less than twenty-four hours, after written notice of the alleged violation. For offenders in total confinement, the department shall hold a hearing ((shall be held)) within five ((working)) business days, but not less than twenty-four hours, after written notice of the alleged violation;~~

~~((d)) (c) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; ((and)) (v) question witnesses who appear and testify; and (vi) receive a written summary of the reasons for the hearing officer's decision; and~~

~~((e)) (d) The sanction shall take effect if affirmed by the hearing officer. ((Within seven days after the hearing officer's decision, the offender may appeal the decision)) The offender may appeal the sanction to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The offender's appeal must be in writing and hand-delivered to department staff, or postmarked, within seven days after the sanction was imposed. The ((sanction shall be reversed or modified)) appeals panel shall affirm, reverse, modify, vacate, or remand based on its findings. If a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community, then the panel will reverse, vacate, remand, or modify the sanction.~~

~~((f)) (6) For purposes of this section, ((no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations)) the hearing officer may not rely on unconfirmed or unconfirmable allegations to find that the offender violated a condition.~~

(7) Hearing officers shall report through a chain of command separate from that of community corrections officers.

Sec. 8. RCW 9.94A.740 and 2008 c 231 s 22 are each amended to read as follows:

(1) When an offender is arrested pursuant to RCW 9.94A.631 or 9.94A.716, the department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440, until the department releases its detainee.

(2) Inmates, as defined in RCW 72.09.015, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections, except as provided in subsection (3) of this section.

(3) For confinement sanctions imposed by the department under RCW 9.94A.670, the local correctional facility shall be financially responsible.

(4) The department, in consultation with the Washington association of sheriffs and police chiefs and those counties in which the sheriff does not operate a correctional facility, shall establish a methodology for determining the department's local correctional facilities bed utilization rate, for each county in calendar year 1998, for offenders being held for violations of conditions of community custody.

(5) Except as provided in subsections (1) and (2) of this section, the local correctional facility shall continue to be financially responsible to the extent of the calendar year 1998 bed utilization rate for confinement sanctions imposed by the department pursuant to RCW 9.94A.737. If the department's use of bed space in local

correctional facilities of any county for such confinement sanctions exceeds the 1998 bed utilization rate for the county, the department shall compensate the county for the excess use at the per diem rate equal to the lowest rate charged by the county under its contract with a municipal government during the year in which the use occurs.

Sec. 9. RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended to read as follows:

(1) In granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary for up to twelve months. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered

supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

Sec. 10. RCW 9.95.210 and 2012 c 183 s 4 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does

TWENTY SIXTH DAY, APRIL 6, 2012

2012 1ST SPECIAL SESSION

not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary for up to twelve months. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

NEW SECTION. Sec. 11. (1)(a) Research shows that traditional mechanisms of surveillance-based supervision and sanctioning are ineffective in reducing recidivism or improving public safety. The legislature is persuaded by recent studies showing that swift and certain sanctions, in combination with treatment-based interventions that address chemical dependency and criminogenic behaviors, are a more effective and efficient use of public resources to affect future crime.

(b) Notwithstanding, this is a new approach for Washington. It is imperative to the success of the state's system of offender supervision that the department of corrections be vigilant in:

(i) Monitoring the quality and consistency of applying swift and certain sanctions across the state;

(ii) Ensuring that sanctions are commensurate with identified behaviors and, to the extent possible, produce satisfactory results;

(iii) Applying evidence-based treatment and evaluation principles to address offenders' criminogenic and chemical dependency needs and therefore pairing the offender with the appropriate treatment; and

(iv) Maintaining good relations and open communication with law enforcement to assist in identifying offenders that pose the greatest risk to public safety.

(2) In implementing the provisions of this act, the department of corrections is directed to:

(a) Form stakeholder groups, that may include but are not limited to local community corrections officers, law enforcement, prosecuting attorneys, superior court judges, chemical dependency treatment and other community providers, and victim advocates;

(b) Within available resources, provide inpatient or outpatient chemical dependency treatment to offenders initially assessed as in need of treatment based on an evaluation of the offender's needs by a certified staff or chemical dependency provider utilizing evidence-based tools for evaluation;

(c) Perform outreach to the criminal justice training commission and local law enforcement agencies to ensure law enforcement is informed of changes in procedures for holding offenders pending the filing of charges for a new crime and establish ongoing channels of communication with local law enforcement for conveying information about individual offenders who have committed new crimes;

(d) Survey community corrections officers on a periodic basis to gather input and suggestions.

(3) The department shall report to the governor, appropriate committees of the legislature, and the stakeholder groups as identified in subsection (2)(a) of this section on its progress and activities in implementing this act, steps taken to improve the efficacy of chemical dependency treatment, evidence of outcomes achieved as reported by providers through submission of performance measure data, and including any recommended changes in legislation, no later than December 1, 2012, and December 1, 2013.

(4) This section expires December 31, 2013.

NEW SECTION. Sec. 12. This act applies retroactively and prospectively regardless of the date of an offender's underlying offense.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. Section 2 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 15. Sections 1, 3 through 9, and 11 through 14 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect June 1, 2012.

NEW SECTION. Sec. 16. Section 9 of this act expires August 1, 2012.

NEW SECTION. Sec. 17. Section 10 of this act takes effect August 1, 2012."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Carrell to Engrossed Second Substitute Senate Bill No. 6204.

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

MOTION

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

On page 1, line 1 of the title, after "supervision;" strike the remainder of the title and insert "amending RCW 9.94A.631, 9.94A.704, 9.94A.706, 9.94A.714, 9.94A.716, 9.94A.737, 9.94A.740, 9.95.210, and 9.95.210; reenacting and amending RCW 9.94A.633; creating new sections; providing effective dates; providing expiration dates; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Engrossed Second Substitute Senate Bill No. 6204 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Second Substitute Senate Bill No. 6204.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Second Substitute Senate Bill No. 6204 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton and Roach

Excused: Senators Hewitt, Hill, Holmquist Newbry and Morton

SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6204, 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 Frockt moved that the Senate be at ease subject to the call of the President.

MOTION

Senator Schoesler moved that the Senate adjourned until 9:00 a.m. Monday, April 9, 2012.

Senator Brown spoke against the motion.

POINT OF ORDER

Senator Pflug: "Thank you Mr. President. I believe that calling this a 'ploy' impugns the motives of the members. I would appreciate it if the good lady be a little more careful. Thank you."

REMARKS BY THE PRESIDENT

President Owen: "The President is sorting something out here just a moment. You changed your rules recently to where a motion to recess has now the same rank as a motion to adjourn. Therefore Senator Frockt's motion to recess is actually the motion, or excuse me to go at ease, at ease is in the same rank, has an equal rank and that is the motion that is appropriately before us at this time. Therefore the other motions are not in order at this time until that order is disposed of."

Senators Brown and Schoesler spoke in favor of the motion to go to ease.

PARLIAMENTARY INQUIRY

Senator Stevens: "Would you please tell me, which day of the special session we are now into?"

REPLY BY THE PRESIDENT

President Owen: "Twenty-sixth."

PARLIAMENTARY INQUIRY

Senator Stevens: "The Twenty-Sixth day, so we have been here twenty-six days to discuss a budget that wasn't dealt with in the regular session. I believe I have been counting the days and I assume that one of the previous speakers has not been counting the days so I just wanted to clarify that because it's become very foggy in our minds as we listen to some of the rhetoric that continues to happen on this floor. Thank you Mr. President."

REMARKS BY THE PRESIDENT

President Owen: "For members future reference, in a matter of fact, even at this point right now the President has allowed a lot of discretion debate on this which was in error. This issue actually is non-debatable so we're going to go to a vote."

The President declared the question before the Senate to be the motion by Senator Frockt that the Senate go at ease subject to the call of the President.

The motion by Senator Frockt that the Senate go at ease carried by a voice vote.

PERSONAL PRIVILEGE

Senator Murray: "Thank you Mr. President. I want to thank members of our caucus, Jewish members of our caucus who were willing to forgo their very holy holiday to get the business of the state done."

PERSONAL PRIVILEGE

Senator Becker: "Thank you Mr. President. I would just like to share something personal with everyone here. My mother will be ninety-four years old on Monday and she has decided this late in her life to become a part the Christian community and she is going to be baptized tomorrow night at eight o'clock into the Catholic religion. She lives in Yakima and I think family is one of the most important things in the world to me and how long do we have our mothers? How long do we have them? I don't know but I hope to heck we get to go tomorrow so I can get to go and say, be with my mom, on her baptism. Thank you."

PERSONAL PRIVILEGE

Senator Parlette: "Thank you. Following the previous speaker, I too have a family member that Saturday night will be baptized. I hope I too can be there for that but more importantly I am so glad for this body is going to continue to work today in a bipartisan fashion to get the reform bills that we've discussed. I hope we can accomplish that and with that I'm sure we can agree to a budget so today let's hope we get our work done in a positive direction as the Senate did last year. Thank you very much."

MOTION

At 12:16 p.m., on motion of Senator Frockt, the Senate was declared to be at ease subject to the call of the President.

TWENTY SIXTH DAY, APRIL 6, 2012

2012 1ST SPECIAL SESSION

EVENING SESSION

The Senate was called to order at 8:55 p.m. by President Owen.

MOTION

On motion of Senator Brown, the Senate reverted to the first order of business.

REPORTS OF STANDING COMMITTEES

April 6, 2012

SB 5940 Prime Sponsor, Senator Hobbs: Regarding reforms to school employee benefits purchasing. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5940 be substituted therefor, and the substitute bill do pass. Signed by Senators Zarelli; Parlette; Baumgartner; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Padden; Pflug; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Conway; Kohl-Welles and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Harper and Regala.

Passed to Committee on Rules for second reading.

April 6, 2012

SB 6634 Prime Sponsor, Senator Murray: Addressing language access providers. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Harper; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore and Regala.

MINORITY recommendation: Do not pass. Signed by Senators Parlette; Holmquist Newbry; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and Padden.

Passed to Committee on Rules for second reading.

April 6, 2012

SB 6636 Prime Sponsor, Senator Kastama: Requiring a balanced state budget for the current and ensuing fiscal biennium. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6636 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Hatfield; Holmquist Newbry; Honeyford; Kastama; Padden; Pflug; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Conway; Harper and Kohl-Welles.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser; Pridemore and Regala.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Frockt, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

At 8:57 p.m., on motion of Senator Frockt, the Senate adjourned until 10:30 a.m. Saturday, April 7, 2012.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SIXTH DAY, APRIL 6, 2012

2012 1ST SPECIAL SESSION

| | | | | |
|---------|--|---|--|---|
| 2127-S | Introduction & 1 st Reading | 1 | Other Action | 2 |
| | Messages | 1 | Second Reading | 2 |
| 2565-S2 | Introduction & 1 st Reading | 1 | Third Reading | 2 |
| | Messages | 1 | Third Reading Final Passage..... | 8 |
| 2822 | Introduction & 1 st Reading | 1 | 6634 | |
| | Messages | 1 | Committee Report | 9 |
| 2828-S | Introduction & 1 st Reading | 1 | 6636 | |
| | Messages | 1 | Committee Report | 9 |
| | Other Action | 1 | 6637 | |
| | Second Reading | 2 | Introduction & 1 st Reading..... | 1 |
| | Third Reading Final Passage | 2 | PRESIDENT OF THE SENATE | |
| 5940 | Committee Report | 9 | Remarks by the President..... | 8 |
| 6204-S | Other Action | 7 | Reply by the President | 8 |
| 6204-S2 | | | WASHINGTON STATE SENATE | |
| | | | Parliamentary Inquiry, Senator Stevens | 8 |
| | | | Personal Privilege, Senator Becker | 8 |
| | | | Personal Privilege, Senator Murray | 8 |
| | | | Personal Privilege, Senator Parlette | 8 |
| | | | Point of Order, Senator Pflug..... | 8 |