

FIFTY SEVENTH DAY

AFTERNOON SESSION

Senate Chamber, Olympia  
Monday, March 7, 2016

The Senate was called to order at 1:00 o'clock p.m. by the President of the Senate, Lt. Governor Owen presiding.

The Secretary called the roll and announced to the President that all Senators were present, with the exception of Senator Baumgartner.

The Sergeant at Arms Color Guard consisting of Pages Mr. Clayton Shirley and Miss Shauna Christine Flores, presented the Colors.

Page Mr. Johnson Kuang led the Senate in the Pledge of Allegiance.

Senator Warnick offered the prayer.

MOTION

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

MOTION

On motion of Senator Fain, and without objection, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 3, 2016

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

LARRY BROWN, reappointed May 2, 2014, for the term ending April 3, 2018, as Member of the State Board for Community and Technical Colleges.

Sincerely,  
JAY INSLEE, Governor

Referred to Committee on Higher Education.

March 2, 2016

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

EMILY K. DUNN-WILDER, appointed October 7, 2015, for the term ending June 30, 2016, as Member of the The Evergreen State College Board of Trustees.

Sincerely,  
JAY INSLEE, Governor

Referred to Committee on Higher Education.

March 2, 2016

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment,

subject to your confirmation.

ALLIE M. JOINER, reappointed June 23, 2015, for the term ending July 1, 2020, as Member of the Center for Childhood Deafness and Hearing Loss Board of Trustees.

Sincerely,  
JAY INSLEE, Governor

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

March 2, 2016

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON  
Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

SEPI SOLEIMANPOUR, reappointed January 28, 2016, for the term ending January 19, 2020, as Member of the Pharmacy Quality Assurance Commission.

Sincerely,  
JAY INSLEE, Governor

Referred to Committee on Health Care.

MOTION

On motion of Senator Fain, and without objection, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Fain, and without objection, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House has passed:

SECOND SUBSTITUTE HOUSE BILL NO. 2839,  
and the same is herewith transmitted.

BERNARD DEAN, Deputy Chief Clerk

MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5143,  
SENATE BILL NO. 5270,  
SUBSTITUTE SENATE BILL NO. 5597,  
SUBSTITUTE SENATE BILL NO. 5670,  
SUBSTITUTE SENATE BILL NO. 6117,  
SENATE BILL NO. 6156,  
ENGROSSED SENATE BILL NO. 6166,  
SENATE BILL NO. 6171,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 6242,  
SENATE BILL NO. 6245,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6248,

SUBSTITUTE SENATE BILL NO. 6283,  
 SENATE BILL NO. 6325,  
 SUBSTITUTE SENATE BILL NO. 6358,  
 SENATE BILL NO. 6400,  
 SENATE BILL NO. 6405,  
 SUBSTITUTE SENATE BILL NO. 6449,  
 SENATE BILL NO. 6475,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6513,  
 ENGROSSED SENATE BILL NO. 6589,  
 SENATE BILL NO. 6607,  
 SENATE JOINT MEMORIAL NO. 8019,  
 SENATE JOINT RESOLUTION NO. 8210,  
 and the same are herewith transmitted.

BERNARD DEAN, Deputy Chief Clerk

MOTION

On motion of Senator Fain, and without objection, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 2453 by House Committee on Appropriations (originally sponsored by Representatives Jinkins, Rodne, Cody, Schmick, Chandler, Dunshee, Muri, Kilduff and Ormsby)

AN ACT Relating to improving oversight of the state hospitals; adding a new chapter to Title 72 RCW; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2985 by House Committee on Capital Budget (originally sponsored by Representatives Riccelli, Short, Ormsby, Parker, Holy, Manweller, McCaslin, Tharinger, Peterson, Stanford, Kretz, Magendanz and Moscoso)

AN ACT Relating to excluding certain school facilities from the inventory of educational space for determining eligibility for state assistance for common school construction; and amending RCW 28A.525.055.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Fain, and without objection, all measures listed on the Introduction and First Reading report were referred to the committee as designated.

MOTION

On motion of Senator Fain, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

On motion of Senator Fain, and without objection, the Senate advanced to the eighth order of business.

MOTION

Senator Liias moved adoption of the following resolution:

SENATE RESOLUTION  
 8722

By Senators Liias, Fain, King, Keiser, Benton, Nelson, Frockt, Jayapal, McCoy, McAuliffe, Fraser, and Habib

WHEREAS, Joan M. "Joni" Earl is retiring from her position as Chief Executive Officer of Sound Transit after leading the agency for fifteen years; and

WHEREAS, Ms. Earl's prior government experience as Deputy County Executive of Snohomish County, City Manager of Mill Creek, and Director of Internal Management and Chief Fiscal Officer of Kitsap County together made her uniquely suited to pay attention to both the big picture and the financial bottom line, and she brought to Sound Transit laser-sharp business sense and drive for results; and

WHEREAS, From the time she was named Acting Executive Director in January 2001 and made Executive Director six months later, Ms. Earl instilled an agency culture of accountability and transparency around doing public projects; and

WHEREAS, In her 15 years leading Sound Transit, the agency evolved to become one of the nation's leading transit agencies; and

WHEREAS, Ms. Earl and her leadership team dramatically restructured the way Sound Transit manages major projects, which by 2003 led to the restoration of \$500 million in federal funding for building the initial segment of the Link regional light rail system; and

WHEREAS, Link light rail service opened between Seattle and Sea-Tac Airport in 2009; and

WHEREAS, As Sound Transit's CEO and throughout her public career, Ms. Earl has forged important partnerships, working closely with elected and community leaders at all levels and across political aisles, in particular with the late Representative Ruth Fisher, after whom the Sound Transit board room is named; and

WHEREAS, Sound Transit's regional system of ST Express buses, Sounder trains, and Link light rail will provide more than 41 million rides this year, improving the economic and social health of central Puget Sound, home to 40 percent of the state's population, 70 percent of our state's economic activity, and 97 percent of our state's congestion; and

WHEREAS, Ms. Earl's extraordinary vision and leadership provide a legacy for generations to come, truly leaving Puget Sound communities and our economy better than she found them, and we are grateful for her remarkable contributions to the state of Washington; and

WHEREAS, Ms. Earl's service is marked not only by her accomplishments, but also through the dignified way she treated her coworkers, employees, and the community;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and congratulate Ms. Joni Earl for her lifetime of outstanding public service, and for her dedication to transparency and accountability in doing the public's business; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Ms. Earl and to the Board of Directors of Sound Transit.

Senators Liias, Pedersen, Fain, Fraser, Pearson, McCoy and Habib spoke in favor of adoption of the resolution.

FIFTY SEVENTH DAY, MARCH 7, 2016

2016 REGULAR SESSION

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8722.

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

INTRODUCTION OF GUESTS

The President welcomed and introduced Ms. Joni Earl, the CEO Emeritus of Sound Transit, and her husband, Mr. Charlie Earl, former Executive Director of the State Board for Community and Technical Colleges, who were seated at the rostrum.

MOTION

Senator Ranker moved adoption of the following resolution:

SENATE RESOLUTION  
8711

By Senators Ranker, Ericksen, Dansel, Frockt, Cleveland, Bailey, McCoy, Nelson, Liias, Hasegawa, McAuliffe, and Habib

WHEREAS, Dr. W. Bruce Shepard is retiring from his position as President of Western Washington University in June 2016, after serving as the University's 13th President; and

WHEREAS, President Shepard is a true public servant in higher education, with four decades of experience as an educator and academic leader, including eight years as President of Western Washington University, seven years of public service as Chancellor of the University of Wisconsin-Green Bay, six years of service as Provost at Eastern Oregon University, and twenty-three years with Oregon State University, where he earned tenure as a Professor of Political Science and served in various roles in the University's administration; and

WHEREAS, Under President Shepard's leadership, Western Washington University has been recognized as a regional and national leader for academic success and community engagement, including repeated recognition by U.S. News & World Report as the highest ranking public master's degree granting university in the Pacific Northwest and one of the best values in public higher education by Kiplinger's; ranking first in the nation three years in a row among medium-sized universities in sending graduates to the Peace Corps; and being the top national producer in 2013 among public master's degree granting institutions for Fulbright Scholarship winners; and

WHEREAS, President Shepard has prioritized Western's role in building a stronger Washington as a publicly-purposed university, highlighted by the fact that nine out of ten Western students are from the state of Washington, and the vast majority of Western alumni live in Washington, including in every county throughout the state; and

WHEREAS, President Shepard led the University to successfully navigate the Great Recession, effectively managing the University's finances while protecting Western's distinctive academic excellence as well as affordability for students; and

WHEREAS, During President Shepard's tenure at Western, STEM degree production has increased by fifty percent, including a tripling of the number of computer science degrees produced; and

WHEREAS, President Shepard has strengthened Western's commitment to serving, educating, and graduating first-generation, low-income, and traditionally underserved students, helping to establish an empathetic campus culture that values inclusivity and diversity; and

WHEREAS, Through his leadership, President Shepard has consistently challenged the Western community and residents throughout Washington State to consider tough questions around racial privilege, equity, and social justice, and worked to ensure that quality higher education is accessible to students of all backgrounds and demographics; and

WHEREAS, Through his leadership, President Shepard has fostered greater equity and inclusion on the Western Washington University campus through multiple initiatives that have enhanced the quality of life for students, faculty, and staff; and

WHEREAS, President Shepard has been a champion of shared governance and leading by listening, beginning his service at Western by holding listening sessions involving several thousand faculty, staff, and students on campus, followed by over one hundred conversations with diverse constituency groups around Washington and beyond; and

WHEREAS, Under President Shepard's leadership, Western has invigorated a culture of philanthropy and elevated its reputation throughout the state, leading to the success of the sixty million dollar Western Stands for Washington fundraising campaign; and

WHEREAS, President Shepard's legacy and devotion to public higher education will have lasting beneficial effects on the state of Washington and the students, faculty, and staff of Western Washington University for years to come;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize President Bruce Shepard for his service in higher education and for his dedication to access, innovation, diversity, equity, sustainability, and academic excellence; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to President Shepard and the Board of Trustees of Western Washington University.

Senators Ranker, Ericksen, Liias, Carlyle, Frockt, Takko and Bailey spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8711.

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

INTRODUCTION OF GUEST

The President welcomed and introduced Mr. Bruce Shepard, President of Western Washington University who was seated in the gallery.

MOTION

Senator Hasegawa moved adoption of the following resolution:

SENATE RESOLUTION  
8704

By Senators Hasegawa, Ranker, Bailey, Baumgartner, Conway, Becker, Frockt, Carlyle, Liias, McCoy, McAuliffe, and Hobbs

WHEREAS, In June 2016, Cyndie Shepard is retiring from her position as the first lady of Western Washington University and as the executive director of Western's award-winning Compass 2 Campus mentoring program; and

WHEREAS, Cyndie Shepard has excelled as the first lady of

Western Washington University in working with her husband, Western President Bruce Shepard, to develop friendships and partnerships on campus and in the community, state, and nation; and in creating opportunities for people from all walks of life; and

WHEREAS, Cyndie Shepard has proven to be a true champion for education in three states, particularly in raising aspirations for students from traditionally underrepresented, diverse, and first generation backgrounds to pursue higher education through mentoring programs in Washington and Wisconsin; and

WHEREAS, Cyndie Shepard has taught at several universities and colleges across the nation including the University of Wisconsin-Green Bay, Murray State University, Eastern Oregon University, and Blue Mountain Community College; and has extensive experience in P-12 education, special education, and administration; and

WHEREAS, The Western community and the people of Washington have benefited from the contributions and leadership of Cyndie Shepard, who has particularly distinguished herself for her creation, development, and leadership of Western's Compass 2 Campus program, a nationally recognized, award-winning mentoring initiative that places Western students in local school districts to encourage students to graduate from high school and pursue higher education; and

WHEREAS, The Compass 2 Campus program was transported to Central Washington University last year, in recognition of its great success at Western and in Whatcom and Skagit counties; and

WHEREAS, The Western Washington University Compass 2 Campus Mentorship Initiative is a pilot program implemented by House Bill No. 1986 which was signed by the governor on May 11, 2009; and

WHEREAS, Cyndie Shepard served as director and co-founder of the Phuture Phoenix program at University of Wisconsin-Green Bay, where the program continues to be successful and has been transported to University of Wisconsin-Eau Claire and Silver Lake College; and

WHEREAS, Compass 2 Campus and the Phuture Phoenix programs have proven to increase GPA and reduce truancy among elementary, middle, and high school students; empower students to make good choices about the future; increase students' leadership and commitment to giving back to their communities; and empower more students to graduate from high school and encourage them to consider some form of higher education; and

WHEREAS, Cyndie Shepard presents on mentorship and student engagement at numerous conferences and community events, teaches at Western in the Woodring College of Education and in the dance department, is past president of Western's chapter of Phi Kappa Phi, is on the Woodring Diversity Committee, and is an advisory board member for the GRADS Program in Bellingham Public Schools; and

WHEREAS, Cyndie Shepard's legacy and devotion to public education will have lasting beneficial effects on the people of the state of Washington, those who come from disadvantaged backgrounds, and those college students who served as mentors to those students in area schools, for years to come;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize Cyndie Shepard for her service to Western Washington University and for her dedication to K-16 education and to student access and success; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Cyndie Shepard and the Board of Trustees of Western Washington University.

Senators Hasegawa, Ericksen, Ranker and McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8704.

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

#### INTRODUCTION OF GUEST

The President welcomed and introduced Ms. Cyndie Shepard, first lady of Western Washington University, who was seated in the gallery.

#### PERSONAL PRIVILEGE

Senator O'Ban: "Thank you, Mr. President. Further to the events of last Friday when this body, in solidarity with the Brad Tower family, recognized the tremendous, unspeakable loss to that family. I took note of some of the very appropriate comments made on the floor by a number of the members. Particularly, I was moved by Senator Carlyle's comments about the need for a community, the community of those in which one has lost so much as Brad Tower and his family, and the need for that community to come alongside and show it's solidarity. So, in a very small way, we are doing that through the ribbons that you found on your desk. I suggested to several this idea and my intrepid LA and her colleague, Krista Winters, got together and created these and made them available to you and any member, any staff and any others, who are members of this community to wear in solidarity with the Tower family. So, that's the purpose of the ribbon and we'll wear it to show in this very modest way that we remember that family and we want to show them that we will continue to remember and pray for them. Thank you."

Senator Parlette announced a meeting of the Majority Coalition Caucus immediately upon going at ease.

Senator Fraser announced a meeting of the Democratic Caucus immediately upon going at ease.

#### MOTION

At 1:53 p.m., on motion of Senator Fain, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:09 p.m. by the President of the Senate, Lt. Governor Owen presiding.

#### MOTION

On motion of Senator Fain, and without objection, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5206 with the following amendment(s): 5206-S AMH GGIT H4628.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.09.310 and 2005 c 387 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the state auditor shall annually audit the statewide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies

shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their preparation, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the state agency audited, one to the joint legislative audit and review committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. A copy of any report containing findings of noncompliance with state law shall be transmitted to the attorney general and shall be subject to the process provided in section 2 of this act.

(2) Audits of the department of labor and industries must be coordinated with the audits required under RCW 51.44.115 to avoid duplication of audits.

NEW SECTION. Sec. 2. A new section is added to chapter 43.09 RCW to read as follows:

(1) Within ninety days of receipt of an audit under RCW 43.09.310 containing findings of noncompliance with state law, the subject state agency shall submit a response and a plan for remediation to the governor, the state auditor, the office of financial management, the joint legislative audit and review committee, and the relevant fiscal and policy committees of the senate and house of representatives.

(2) If, at the next succeeding audit of the subject state agency, the state auditor determines that the subject state agency has failed to make substantial progress in remediating the noncompliance with state law, the state auditor shall notify the entities specified in subsection (1) of this section.

(3) Upon receipt of a notification under subsection (2) of this section, a fiscal or policy committee of the senate or house of representatives may refer the matter to the senate committee on facilities and operations or the executive rules committee of the house of representatives.

(4) The obligation to prepare and submit a plan for remediation under this section applies only:

(a) If the agency's general fund-state biennial budget exceeds one billion dollars; and

(b) Subject to the availability of amounts appropriated for this specific purpose."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Becker moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5206 and ask the House to recede therefrom.

Senators Becker and Fraser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5206 and ask the House to recede therefrom.

The motion by Senator Becker carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5206 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House passed SENATE BILL NO. 6274 with the following amendment(s): 6274 AMH BUYS LEWI 016

On page 3, line 13, after "By December 1," strike "((2014)) 2020" and insert "2014"

On page 4, line 8, after "((2016))" strike "2022" and insert "2017"

On page 4, line 11, after "((2016))" strike "2022" and insert "2017"

On page 4, line 13, after "June 30," strike "2022" and insert "2017"

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Pearson moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6274 and ask the House to recede therefrom.

Senators Pearson and Jayapal spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pearson that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6274 and ask the House to recede therefrom.

The motion by Senator Pearson carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 6274 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6525 with the following amendment(s): 6525-S.E AMH LG H4516.20.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.27.085 and 1989 c 256 s 1 are each amended to read as follows:

(1) There is hereby created the building code council account in the state treasury. Moneys deposited into the account shall be used by the building code council, after appropriation, to perform the purposes of the council.

(2) All moneys collected under subsection (3) of this section shall be deposited into the building code council account. Every four years the state treasurer shall report to the legislature on the balances in the account so that the legislature may adjust the charges imposed under subsection (3) of this section.

(3) There is imposed a fee of four dollars and fifty cents on each building permit issued by a county or a city, plus an additional surcharge of two dollars for each residential unit, but not including the first unit, on each building containing more than one residential unit. Quarterly each county and city shall remit moneys collected under this section to the state treasury; however, no remittance is required until a minimum of fifty dollars has accumulated pursuant to this subsection.

(4) In addition to the fees under subsection (3) of this section, there is imposed a temporary surcharge of one dollar on each

residential building permit issued by a county or a city, and a temporary surcharge of five dollars and fifty cents for each nonresidential building permit issued by a county or a city. These temporary surcharges expire July 1, 2018.

Sec. 2. RCW 19.27.070 and 2011 1st sp.s. c 43 s 244 are each amended to read as follows:

There is hereby established in the department of enterprise services a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of fifteen members:

(a) Two members must be county elected legislative body members or elected executives;

(b) Two members must be city elected legislative body members or mayors;

(c) One member must be a local government building code enforcement official;

(d) One member must be a local government fire service official;

(e) One member must be a person with a physical disability and shall represent the disability community;

(f) One member must represent the general public; and

(g) Seven members must represent the private sector as follows:

((i)) One member shall represent general construction, specializing in commercial and industrial building construction;

((f)) (ii) One member shall represent general construction, specializing in residential and multifamily building construction;

((g)) (iii) One member shall represent the architectural design profession;

((h)) (iv) One member shall represent the structural engineering profession;

((i)) (v) One member shall represent the mechanical engineering profession;

((j)) (vi) One member shall represent the construction building trades;

((k)) (vii) One member shall represent manufacturers, installers, or suppliers of building materials and components;

(l) One member must be a person with a physical disability and shall represent the disability community; and

(m) One member shall represent the general public).

(2) At least six of these fifteen members shall reside east of the crest of the Cascade mountains.

(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership.

(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.

(b) The council shall elect a member to serve as chair of the council for one-year terms of office.

(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.

(d)(i) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember enters into employment outside of the industry he or she has been appointed to represent, then he or she shall be removed from the council.

(ii) Any member who is appointed after the effective date of this section to represent a specific private sector industry must maintain sufficiently similar private sector employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember appointed after the effective date of this section to represent a specific private sector industry enters into employment outside of the industry, or outside of the private sector, he or she has been appointed to represent, then he or she shall be removed from the council.

(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice.

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests identified in this section.

(6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

((7) The department of enterprise services shall provide administrative and clerical assistance to the building code council.))

Sec. 3. RCW 19.27.074 and 1989 c 266 s 3 are each amended to read as follows:

(1) The state building code council shall:

(a) Adopt and maintain the codes to which reference is made in RCW 19.27.031 in a status which is consistent with the state's interest as set forth in RCW 19.27.020. In maintaining these codes, the council shall regularly review updated versions of the codes referred to in RCW 19.27.031 and other pertinent information and shall amend the codes as deemed appropriate by the council;

(b) Approve or deny all county or city amendments to any code referred to in RCW 19.27.031 to the degree the amendments apply to single-family or multifamily residential buildings;

(c) As required by the legislature, develop and adopt any codes relating to buildings; and

(d) Propose a budget for the operation of the state building code council to be submitted to the office of financial management pursuant to RCW 43.88.090.

(2) The state building code council may:

(a) Appoint technical advisory committees which may include members of the council; and

(b) ((Employ permanent and temporary staff and contract for services; and

(c)) Conduct research into matters relating to any code or codes referred to in RCW 19.27.031 or any related matter.

(3)(a) All meetings of the state building code council shall be open to the public under the open public meetings act, chapter 42.30 RCW. All actions of the state building code council which adopt or amend any code of statewide applicability shall be pursuant to the administrative procedure act, chapter 34.05 RCW.

(b) All council decisions relating to the codes enumerated in RCW 19.27.031 shall require approval by at least a majority of the members of the council.

(c) All decisions to adopt or amend codes of statewide application shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.

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2016 REGULAR SESSION

(4) The department of enterprise services shall employ permanent and temporary staff and contract for services for the state building code council.

Sec. 4. RCW 19.27A.020 and 2015 c 11 s 3 are each amended to read as follows:

(1) The state building code council in the department of enterprise services shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. One climate zone includes: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties. The other climate zone includes all other counties not listed in this subsection (3). The assignment of a county to a climate zone may not be changed by adoption of a model code or rule. Nothing in this section prohibits the council from adopting the same rules or standards for each climate zone.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of enterprise services as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of enterprise services shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

NEW SECTION. Sec. 5. A new section is added to chapter 19.27 RCW to read as follows:

(1)(a) A legislative task force on the state building code council's administration and operations is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from

each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The president of the senate and the speaker of the house of representatives shall appoint the following eight members:

(A) Two current members of the building code council representing the private sector;

(B) One current member of the building code council representing local government;

(C) One current member of the building code council representing labor interests; and

(D) Four members who regularly work with the council, each representing one of the following: Local government, private sector interests, labor interests, and environmental interests.

(iv) The director of the department of enterprise services shall appoint one member from the department of enterprise services and one member from the department of commerce energy program.

(b) The task force shall choose its chair from among its legislative membership. The legislative members of the task force shall convene the initial meeting of the task force.

(2) The task force shall review and provide recommendations on the following issues:

(a) The current structure, operations, and resources of the council;

(b) The building code development process and length, including the policy and procedure, technical, and economic aspects including the public and private construction costs of review and adoption of the state building code;

(c) Total resources necessary for an effective state building code development process, including staffing and needs;

(d) Options for long-term, reliable funding of the council;

(e) The powers, duties, and support services of the department of enterprise services relevant to the council;

(f) Council membership, composition, and size; and

(g) The council's compliance with current statutes and requirements.

(3) Staff support for the task force must be provided by senate committee services and the office of program research.

(4) Legislative members of the task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(5) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The task force shall report its findings and recommendations to the appropriate committees of the legislature by October 1, 2017.

(7) This section expires October 1, 2017."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Angel moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6525 and ask the House to recede therefrom.

Senators Angel and McCoy spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Angel that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6525 and ask the House to recede therefrom.

The motion by Senator Angel carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6525 and asked the House to recede therefrom by voice vote.

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6360 with the following amendment(s): 6360-S AMH JUDI H4585.10.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The office of the attorney general shall convene a work group of stakeholders to provide input and feedback on the development of a plan and program for the efficient statewide consolidation of an individual's traffic-based financial obligations imposed by courts of limited jurisdiction into a unified and affordable payment plan.

(2) The following must be invited to participate in the work group:

(a) The administrator for the courts or the administrator for the courts' designee;

(b) The director of the Washington state department of licensing or the director's designee;

(c) A district or municipal court judge, appointed by the district and municipal court judges' association;

(d) A prosecutor, appointed by the Washington association of prosecuting attorneys, or the prosecutor's designee;

(e) A public defender, jointly appointed by the Washington defender association and the Washington association of criminal defense lawyers;

(f) A district or municipal court administrator or manager, appointed by the district and municipal court management association;

(g) A representative of a civil legal aid organization, appointed by the office of civil legal aid;

(h) The chief of the Washington state patrol or the chief's designee;

(i) A representative of a statewide association of police chiefs and sheriffs, selected by the association;

(j) The director of the Washington traffic safety commission or the director's designee;

(k) A representative of a statewide association of city governments, selected by the association;

(l) A representative of a statewide association of counties, selected by the association; and

(m) A representative of a statewide association of collection professionals.

(3) The work group shall convene as necessary.

(4) The stakeholder work group shall provide final feedback and recommendations to the office of the attorney general no later than September 15, 2017.

NEW SECTION. Sec. 2. (1) At a minimum, the plan must:

(a) Provide for the participation in the statewide system by all courts of limited jurisdiction;

(b) Establish proposed uniform procedures and eligibility criteria for participation in the program by individuals, how payment plans will be established, how community restitution in

lieu of all or part of a monetary penalty may be incorporated in the payment plans, and the circumstances and procedures for terminating an individual's participation in the program;

(c) Provide recommendations regarding which traffic-based financial obligations should be included and whether any should not be included. These recommendations must address whether or not to include obligations arising out of red light camera violations; and

(d) Provide recommendations regarding how to create and implement the program through supreme court rule making, legislation, or a combination thereof.

(2) Considerations for the program may include, but not be limited to:

(a) Procedures to allow traffic-based financial obligations incurred after establishment of a payment plan to be added to and consolidated with an existing unified payment plan;

(b) Provisions for waiving previously accumulated interest once a person is determined to be eligible for the program, establishes a payment plan, and makes an initial payment in accordance with the terms of such a plan;

(c) Procedures for communicating to the courts of limited jurisdiction when a person enters into a payment plan for traffic-based financial obligations and makes an initial payment thereon, so that the courts of limited jurisdiction can notify the department of licensing and which shall result in the department of licensing releasing any suspension of that person's driver's license or driver's privilege based on failure to respond to or pay those traffic-based financial obligations;

(d) A process for proportionally allocating any moneys collected through a consolidated payment plan between the courts that imposed the financial obligations included in the consolidated plan;

(e) Whether to contract with outside entities to administer the program;

(f) What fee, if any, should be assessed to the individual participating in the program for the administration of such services, which may be calculated on a periodic, percentage, or other basis, and the limits on such fees if the program is to be administered by an outside entity;

(g) Appropriate uniform administrative protocols and associated workflow coordination for the administrative office of the courts and for courts of limited jurisdiction;

(h) Uniform guidelines for establishing reasonable, affordable payment plans that are based on an individual's income and capacity to pay, as well as policies and procedures for recording the terms of such plans in a written document provided to program participants;

(i) Policies and procedures to remit money received on a monthly basis to courts that includes an accounting of the involved case numbers and their remaining balances due; and

(j) Policies and procedures for establishing default for when a program participant fails to meet the terms of the payment plan, for other grounds for terminating program participation, and to provide timely notice to courts.

NEW SECTION. Sec. 3. (1) Notwithstanding any other provision in this act, the plan required by this act must not:

(a) Provide for or make recommendations regarding the reinstatement of driving privileges when the revocation of a person's driving privileges is made mandatory by the provisions of chapter 46.20 RCW or other law; or

(b) Include provisions or recommendations related to altering the original amount of any traffic-based financial obligation imposed by any court of limited jurisdiction.

(2) Nothing herein prohibits local jurisdictions or state agencies from offering training in how to provide participants with life skills, driver's education, or budget management classes,

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or from offering other resources targeted towards addressing the social barriers facing participants with chronically suspended driver's licenses for unpaid traffic fines.

**NEW SECTION. Sec. 4.** The office of the attorney general shall submit a report detailing its recommendations and the plan and program required by this act to the Washington state supreme court, the governor, and appropriate committees of the legislature no later than December 1, 2017.

**NEW SECTION. Sec. 5.** This act expires December 31, 2017."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6360 and ask the House to recede therefrom.

Senators Padden and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6360 and ask the House to recede therefrom.

The motion by Senator Padden carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6360 and asked the House to recede therefrom by voice vote.

MOTION

On motion of Senator Fain, and without objection, Senator Baumgartner was excused.

MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SENATE BILL NO. 6180 with the following amendment(s): 6180 AMH ENGR H4577.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes the importance of supporting the development of and providing opportunities for disadvantaged business enterprises in state contracting with the Washington state department of transportation. With the recent passage of an historic sixteen-year investment in the state's transportation system creating new opportunities for minority contracting, it is critical that existing programs and processes at the department of transportation are strengthened and better positioned to ensure greater participation among disadvantaged business enterprises. Many of these business enterprises have historically experienced discrimination in the contracting process and are justly worried about whether these new projects will bring about an equal share of prosperity. The legislature finds that the department of transportation could improve its efforts to engage disadvantaged business enterprises in a manner that would increase trust in the contracting community. As such, it is the intent of the legislature to create a disadvantaged business enterprise advisory committee that will provide leadership in advancing opportunities for minority and disadvantaged contractors in state transportation projects, and provide recommendations for improvements to the legislature. The legislature also intends to consider advisory committee

recommendations to increase the number of disadvantaged business enterprise firms, to increase minority workers in construction trades, and to create economic opportunities for minority communities. Furthermore, the legislature intends for the department of transportation to develop goals specific to disadvantaged business enterprises and to the connecting Washington account projects funded in the 2015 transportation revenue package with input from the advisory committee.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The disadvantaged business enterprise advisory committee is created within the commission with the intent to advise the commission on issues and concerns from the disadvantaged business enterprise community and to increase the level of accountability and transparency regarding disadvantaged business enterprise inclusion spending levels, goal setting, and overall participation on both state-only funded transportation projects and procurement services and transportation projects and procurement services that include federal funds. The advisory committee must create a mission and vision and must provide the following data, analysis, and recommendations to the transportation committees of the legislature:

(a) A review of the department's nonminority women's business waiver request to the federal highway administration and the United States department of transportation, including identification of key issues, an analysis of the impact of the waiver on nonminority women's businesses, and recommended solutions that would lead to waiver approval;

(b) An analysis of the impact, if any, chapter 3, Laws of 1999 (Initiative Measure No. 200) has had on disadvantaged business enterprise participation in transportation projects and procurement services and recommendations on improvements;

(c) An analysis of the implementation of the results of existing disparity studies conducted by the department and recommendations on how the department can build on the existing studies to achieve better results in disadvantaged business enterprise inclusion;

(d) An outreach to the existing minority contracting community to collect information and gather feedback from the community on the perceptions of the current disadvantaged business enterprise contracting process, procedures, and results;

(e) An analysis of current disadvantaged business enterprise support services and the certification process overseen by the office of minority and women's business enterprises and provide recommendations on how the office and the department can increase the pool of eligible businesses, improve support services, respond to contractor needs, and increase overall participation in transportation projects. Any resulting recommendations from this subsection must also be reported to the technology and economic development committee in the house of representatives and the trade and economic development committee in the senate;

(f) A review of the types and manners of oversight the department provides to prime contractors to ensure that established disadvantaged business enterprise goals on federally funded projects are met, including the means, methods, and results of such oversight, and recommend improvements to the oversight process; and

(g) Any other recommendations or issues identified that will provide improved access to transportation projects and procurement services by disadvantaged business enterprises and increase transparency and accountability of the department's efforts to the legislature, including a recommendation on if the advisory committee's termination date should be moved to 2020.

(2) The advisory committee must provide a progress report to the joint transportation committee by December 2016 and provide

recommendations for the items listed in subsection (1) of this section to the joint transportation committee and the house of representatives and senate transportation committees by July 1, 2017. The advisory committee must continually monitor the department's efforts and provide an evaluative report on the department's efforts, identify any gaps or continuing issues, and provide further recommendations to the transportation committees of the legislature by December 1, 2018.

(3) The department, office of minority and women's business enterprises, department of labor and industries, department of enterprise services, and other relevant state agencies must be available to assist in supplying necessary data and information to fulfill the advisory committee's purposes. The department must provide the past three years of contract awards, total funding available to contractors and awarded contracts, support services programmatic funding, work plans, and end-of-year reports. This data and information must be provided to the advisory committee before the first meeting, and the department must continually work with the advisory committee to respond to ongoing data requests.

(4) To the extent possible, the advisory committee must coordinate with the governor's subcabinet on business diversity.

(5)(a) The advisory committee must consist of seventeen members, which must meet at least two times in the 2015-2017 fiscal biennium and regularly thereafter or as needed. The advisory committee members must be jointly appointed by the speaker of the house of representatives and the president of the senate who must appoint:

(i) Representatives from the commission on Hispanic affairs, commission on African-American affairs, commission on Asian Pacific American affairs, and office of Indian affairs, with at least two representatives from each commission or office being appointed, a representative from the civil rights coalition, and a representative from Tabor 100; and

(ii) One member from each of the two largest caucuses in the house of representatives and the senate.

(b) Additionally, the advisory committee must include two disadvantaged business enterprise representatives selected by the office of minority and women's business enterprises and one representative from the department of transportation's office of equal opportunity.

(c) The advisory committee must elect from its membership a chair and vice chair.

(6) Advisory committee members are eligible for travel and per diem reimbursement.

(7) The commission must, to the extent possible, hire a consultant experienced with supporting, managing, and improving disadvantaged business enterprise goals in a public sector setting to organize and facilitate the advisory committee's work.

(8) The advisory committee terminates December 31, 2018.

**Sec. 3.** RCW 47.01.071 and 2007 c 516 s 4 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate, the policies shall provide for the use of integrated, intermodal transportation systems. The policies must be aligned with the goals established in RCW 47.04.280. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing

state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature; and

(d) Integrate the statewide transportation plan with the needs of the elderly and persons with disabilities, and coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(4) By December 2010, to prepare a comprehensive and balanced statewide transportation plan consistent with the state's growth management goals and based on the transportation policy goals provided under RCW 47.04.280 and applicable state and federal laws. The plan must reflect the priorities of government developed by the office of financial management and address regional needs, including multimodal transportation planning. The plan must, at a minimum: (a) Establish a vision for the development of the statewide transportation system; (b) identify significant statewide transportation policy issues; and (c) recommend statewide transportation policies and strategies to the legislature to fulfill the requirements of subsection (1) of this section. The plan must be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. Every four years, the plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(5) By December 2007, the office of financial management shall submit a baseline report on the progress toward attaining the policy goals under RCW 47.04.280 in the 2005-2007 fiscal biennium. By October 1, 2008, beginning with the development of the 2009-2011 biennial transportation budget, and by October 1st biennially thereafter, the office of financial management shall submit to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established under RCW 47.04.280, as measured by the objectives and performance measures established by the office of financial management under RCW 47.04.280;

(6) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

(7) To adopt such rules as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

(8) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

(9) To conduct transportation-related studies and policy analysis to the extent directed by the legislature or governor in the biennial transportation budget act, or as otherwise provided in law, and subject to the availability of amounts appropriated for this specific purpose; ((and))

(10) To administer the disadvantaged business enterprise advisory committee created in section 2 of this act; and

(11) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law."

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator King moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 6180 and ask the House to recede therefrom.

Senator King spoke in favor of the motion.

MOTION

Senator Hobbs moved that the Senate do concur in the House amendment(s) to Senate Bill No. 6180.

Senators Hobbs and Jayapal spoke in favor of the motion.

Senator King spoke against the motion.

MOTION

Senator Liias demanded a roll call vote.

The President declared that at least one-sixth of the Senate joined the demand and the demand was sustained.

PARLIAMENTARY INQUIRY

Senator Hobbs: "I notice the board says do not concur. I made the higher motion to concur. Where are we at right now?"

REPLY BY THE PRESIDENT

President Owen: "A motion to concur is the higher rank. So, that is the motion we are on is to concur. If you vote yes, you're voting to concur. It is incorrect on the screen."

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate do concur in the House amendment(s) to Senate Bill No. 6180.

PARLIAMENTARY INQUIRY

Senator Padden: "If you do not want to concur, you should vote no on this. Is that correct?"

REPLY BY THE PRESIDENT

President Owen: "That's correct."

PARLIAMENTARY INQUIRY

Senator Rolfes: "How many votes are needed for this motion to pass? Is it a majority of the body or is it twenty-five?"

REPLY BY THE PRESIDENT

President Owen: "Majority of those present. Final passage is a majority of the Senate."

ROLL CALL

The Secretary called the roll on the motion by Senator Hobbs and the motion failed by the following vote: Yeas, 23; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Chase, Cleveland, Conway, Darneille, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hobbs, Jayapal, Keiser, Liias, McAuliffe, McCoy, Mullet, Nelson, Pedersen, Ranker, Rolfes and Takko

Voting nay: Senators Angel, Bailey, Becker, Benton, Braun, Brown, Dammeier, Danel, Ericksen, Fain, Hewitt, Hill, Honeyford, King, Litzow, Miloscia, O'Ban, Padden, Parlette, Pearson, Rivers, Roach, Schoesler, Sheldon and Warnick

Excused: Senator Baumgartner

Having failed to receive a majority, the motion by Senator Hobbs did not carry and the Senate refused to concur in the House amendment(s) to Senate Bill No. 6180 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 7, 2016

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5046,  
 SECOND ENGROSSED SENATE BILL NO. 5251,  
 SENATE BILL NO. 5581,  
 ENGROSSED SENATE BILL NO. 5873,  
 SENATE BILL NO. 6200,  
 SENATE BILL NO. 6205,  
 SUBSTITUTE SENATE BILL NO. 6254,  
 SENATE BILL NO. 6263,  
 SENATE BILL NO. 6296,  
 SENATE BILL NO. 6299,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6309,  
 SENATE BILL NO. 6345,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6356,  
 SUBSTITUTE SENATE BILL NO. 6363,  
 SENATE BILL NO. 6371,  
 SUBSTITUTE SENATE BILL NO. 6519,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 7, 2016

MR. PRESIDENT:

The Speaker has signed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1553,  
 SUBSTITUTE HOUSE BILL NO. 2017,  
 HOUSE BILL NO. 2320,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2335,  
 HOUSE BILL NO. 2350,  
 SUBSTITUTE HOUSE BILL NO. 2519,

SUBSTITUTE HOUSE BILL NO. 2541,  
 SUBSTITUTE HOUSE BILL NO. 2584,  
 SUBSTITUTE HOUSE BILL NO. 2730,  
 HOUSE BILL NO. 2741,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2746,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2785,  
 HOUSE BILL NO. 2838,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5029 with the following amendment(s): 5029-S.E AMH JUDI H4583.10.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. SHORT TITLE. This act may be known and cited as the revised uniform fiduciary access to digital assets act.

NEW SECTION. Sec. 2. DEFINITIONS. In this chapter:

(1) "Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney.

(3) "Carries" means engages in the transmission of an electronic communication.

(4) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5) "Content of an electronic communication" means information concerning the substance or meaning of the communication which:

(a) Has been sent or received by a user;

(b) Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(c) Is not readily accessible to the public.

(6) "Court" means the superior court of each county.

(7) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(8) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(9) "Digital asset" means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic communication" has the meaning set forth in 18 U.S.C. Sec. 2510(12), as it existed on the effective date of this section.

(12) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(13) "Fiduciary" means an original, additional, or successor personal representative, guardian, agent, or trustee.

(14) "Guardian" means a person appointed by a court to manage the estate or person, or both, of a living individual. The term includes a limited guardian or certified professional guardian.

(15) "Incapacitated person" means an individual for whom a guardian has been appointed.

(16) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(17) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(18) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(19) "Personal representative" means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this chapter.

(20) "Power of attorney" means a record that grants an agent authority to act in the place of a principal.

(21) "Principal" means an individual who grants authority to an agent in a power of attorney.

(22) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(23) "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Sec. 2510(14), as it existed on the effective date of this section.

(24) "Terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

(25) "Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(26) "User" means a person that has an account with a custodian.

(27) "Will" includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

NEW SECTION. Sec. 3. APPLICABILITY. (1) This chapter applies to:

(a) A fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this section;

(b) A personal representative acting for a decedent who died before, on, or after the effective date of this section;

(c) A guardian acting for an incapacitated person appointed before, on, or after the effective date of this section;

(d) A trustee acting under a trust created before, on, or after the effective date of this section; and

(e) A custodian if the user resides in this state or resided in this state at the time of the user's death.

(2) This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

NEW SECTION. Sec. 4. USER DIRECTION FOR DISCLOSURE OF DIGITAL ASSETS. (1) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

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(2) If a user has not used an online tool to give direction under subsection (1) of this section or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(3) A user's direction under subsection (1) or (2) of this section overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms-of-service agreement.

**NEW SECTION. Sec. 5. TERMS-OF-SERVICE AGREEMENT.** (1) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(2) This chapter does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(3) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 4 of this act.

**NEW SECTION. Sec. 6. PROCEDURE FOR DISCLOSING DIGITAL ASSETS.** (1) When disclosing digital assets of a user under this chapter, the custodian may at its sole discretion:

(a) Grant a fiduciary or designated recipient full access to the user's account;

(b) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(c) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(2) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

(3) A custodian need not disclose under this chapter a digital asset deleted by a user.

(4) If a user directs or a fiduciary or designated recipient requests a custodian to disclose under this chapter some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or the fiduciary or designated recipient may seek an order from the court to disclose:

(a) A subset limited by date of the user's digital assets;

(b) All of the user's digital assets to the fiduciary or designated recipient;

(c) None of the user's digital assets; or

(d) All of the user's digital assets to the court for review in camera.

**NEW SECTION. Sec. 7. DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF DECEASED USER.** If a deceased user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the death certificate of the user;

(3) A certified copy of the letter of appointment of the representative, or a small estate affidavit or court order;

(4) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user; or

(c) A finding by the court that:

(i) The user had a specific account with the custodian, identifiable by the information specified in (a) of this subsection;

(ii) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Sec. 2701 et seq. and 47 U.S.C. Sec. 222, existing on the effective date of this section, or other applicable law;

(iii) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(iv) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

**NEW SECTION. Sec. 8. DISCLOSURE OF OTHER DIGITAL ASSETS OF DECEASED USER.** Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications of the user, if the representative gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the death certificate of the user;

(3) A certified copy of the letter of appointment of the representative, or a small estate affidavit or court order; and

(4) If requested by the custodian:

(a) A number, user name, or address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) Evidence linking the account to the user;

(c) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(d) A finding by the court that:

(i) The user had a specific account with the custodian, identifiable by the information specified in (a) of this subsection; or

(ii) Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

**NEW SECTION. Sec. 9. DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF PRINCIPAL.** To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) Evidence linking the account to the principal.

**NEW SECTION. Sec. 10. DISCLOSURE OF OTHER DIGITAL ASSETS OF PRINCIPAL.** Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications of the principal, if the agent gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) Evidence linking the account to the principal.

**NEW SECTION. Sec. 11. DISCLOSURE OF DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE IS ORIGINAL USER.** Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of that account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

**NEW SECTION. Sec. 12. DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER.** Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument, or a certification of the trust under RCW 11.98.075, that includes consent to disclosure of the content of electronic communications to the trustee;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) Evidence linking the account to the trust.

**NEW SECTION. Sec. 13. DISCLOSURE OF OTHER DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER.** Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications in which the trust has a right or interest, if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument or a certification of the trust under RCW 11.98.075;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(a) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) Evidence linking the account to the trust.

**NEW SECTION. Sec. 14. DISCLOSURE OF DIGITAL ASSETS TO GUARDIAN OF INCAPACITATED PERSON.** (1) Unless otherwise ordered by the court, a guardian appointed due to a finding of incapacity under RCW 11.88.010(1) has the right to access an incapacitated person's digital assets other than the content of electronic communications.

(2) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a guardian the catalogue of electronic communications sent or received by an incapacitated person and any digital assets, other than the content of electronic communications, if the guardian gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) Certified copies of letters of guardianship and the court order appointing the guardian; and

(c) If requested by the custodian:

(i) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the person; or

(ii) Evidence linking the account to the incapacitated person.

(3) A guardian may request a custodian of the incapacitated person's digital assets to suspend or terminate an account of the incapacitated person for good cause. A request made under this section must be accompanied by certified copies of letters of guardianship and the court order appointing the guardian.

**NEW SECTION. Sec. 15. FIDUCIARY DUTY AND AUTHORITY.** (1) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(a) The duty of care;

(b) The duty of loyalty; and

(c) The duty of confidentiality.

(2) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(a) Except as otherwise provided in section 4 of this act, is subject to the applicable terms-of-service agreement;

(b) Is subject to other applicable law, including copyright law;

(c) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(d) May not be used to impersonate the user.

(3) A fiduciary with authority over the property of a decedent, incapacitated person, principal, or settlor has the right to access any digital asset in which the decedent, incapacitated person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(4) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, incapacitated person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws.

(5) A fiduciary with authority over the tangible, personal property of a decedent, incapacitated person, principal, or settlor:

(a) Has the right to access the property and any digital asset stored in it; and

(b) Is an authorized user for the purpose of computer fraud and unauthorized computer access laws.

(6) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(7) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(a) If the user is deceased, a certified copy of the death certificate of the user;

(b) A certified copy of the letter of appointment of the representative or a small estate affidavit or court order, court order, power of attorney, or trust giving the fiduciary authority over the account; and

(c) If requested by the custodian:

(i) A number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) Evidence linking the account to the user; or

(iii) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in (c)(i) of this subsection.

**NEW SECTION. Sec. 16. CUSTODIAN COMPLIANCE AND IMMUNITY.** (1) Not later than sixty days after receipt of the information required under sections 7 through 15 of this act, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(2) An order under subsection (1) of this section directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. Sec. 2702, as it existed on the effective date of this section.

(3) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

(4) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(5) This section does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court order which:

(a) Specifies that an account belongs to the incapacitated person, trustor, decedent, or principal;

(b) Specifies that there is sufficient consent from the incapacitated person, trustor, decedent, or principal to support the requested disclosure; and

(c) Contains a finding required by law other than this chapter.

(6) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

**NEW SECTION. Sec. 17. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**NEW SECTION. Sec. 18. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

**NEW SECTION. Sec. 19. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is

not affected.

**NEW SECTION. Sec. 20.** Sections 1 through 19 of this act constitute a new chapter in Title 11 RCW."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5029.

Senators Padden and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5029.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5029 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5029, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5029, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senator Hargrove

Excused: Senator Baumgartner

ENGROSSED SUBSTITUTE SENATE BILL NO. 5029, as amended by the House, 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

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1553,

SUBSTITUTE HOUSE BILL NO. 2017,

HOUSE BILL NO. 2320,

SECOND SUBSTITUTE HOUSE BILL NO. 2335,

HOUSE BILL NO. 2350,

SUBSTITUTE HOUSE BILL NO. 2519,

SUBSTITUTE HOUSE BILL NO. 2541,

SUBSTITUTE HOUSE BILL NO. 2584,

SUBSTITUTE HOUSE BILL NO. 2730,

HOUSE BILL NO. 2741,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2746,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2785,

HOUSE BILL NO. 2838

## MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House passed SENATE BILL NO. 5605 with the following amendment(s): 5605 AMH ENGR H4568.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and 2014 c 5 s 1 are each reenacted and amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through ((11)) (12) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is ((sixteen)) eighteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted

each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: ((i)) (A) The intent to protect victims of domestic violence under RCW 10.99.010; ((ii)) (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and ((iii)) (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

(3) A police officer shall, at the request of a parent or guardian, arrest the sixteen or seventeen year old child of that parent or guardian if the officer has probable cause to believe that the child has assaulted a family or household member as defined in RCW 10.99.020 in the preceding four hours. Nothing in this subsection removes a police officer's existing authority provided in this section to make an arrest.

(4) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

((4)) (5) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

((5)) (6)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

((6)) (7) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

((7)) (8) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

((8)) (9) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

((9)) (10) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to

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believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

((10)) (11) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

((11)) (12) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

((12)) (13) A law enforcement officer having probable cause to believe that a person has committed a violation under RCW 77.15.160(4) may issue a citation for an infraction to the person in connection with the violation.

((13)) (14) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under RCW 77.15.809 or 77.15.811 may arrest the person in connection with the violation.

((14)) (15) Except as specifically provided in subsections (2), ((3)) (4), ((4)) (5), and ((7)) (8) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

((15)) (16) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or ((9)) (10) of this section if the police officer acts in good faith and without malice.

((16)) (17) A police officer shall arrest and keep in custody, until release by a judicial officer on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that the person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years.

(18) A juvenile detention facility shall book into detention any person under age eighteen brought to that detention facility pursuant to an arrest for assaulting a family or household member as defined in RCW 10.99.020.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Senate Bill No. 5605.

Senators O'Ban and Darneille spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Senate Bill No. 5605.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5605 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5605, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5605, as amended by the House, and the bill passed the Senate

by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Parlette, Pedersen, Ranker, Rivers, Roach, Rolfes, Sheldon, Takko and Warnick

Voting nay: Senators Dandel, Honeyford, Padden, Pearson and Schoesler

Excused: Senator Baumgartner

SENATE BILL NO. 5605, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Honeyford: "Thank you, Mr. President. We get to work in this building, a beautiful structure, and it was eighty-nine years ago today that this was the first session was held in this chamber. Thank you, Mr. President."

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5635 with the following amendment(s): 5635-S.E AMH JUDI H4581.10.

Strike everything after the enacting clause and insert the following:

#### "PART I

NEW SECTION. Sec. 101. This act may be known and cited as the uniform power of attorney act.

NEW SECTION. Sec. 102. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.

(2) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) "Good faith" means honesty in fact.

(5) "Incapacity" means inability of an individual to manage property, business, personal, or health care affairs because the individual:

(a) Has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) Is:

(i) An absentee, as defined in chapter 11.80 RCW; or

(ii) Outside the United States and unable to return.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Power of attorney" means a writing that uses the term "power of attorney" and grants authority to an agent to act in the place of the principal.

(8) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(9) "Principal" means an individual who grants authority to an agent in a power of attorney.

(10) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, tangible or intangible, or any interest or right therein.

(11) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(12) "Stocks, bonds, and financial instruments" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term shall also include but not be limited to commodity futures contracts, call or put options on stocks or stock indexes, derivatives, and margin accounts.

NEW SECTION. Sec. 103. (1) This chapter applies to all powers of attorney except:

(a) A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(b) A proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

(c) A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

(2) Notwithstanding subsection (1) of this section, section 117 of this act shall not apply to a power to make health care decisions under sections 217 and 218 of this act, nor shall it apply to the power to nominate a guardian for a minor child under section 218 of this act.

NEW SECTION. Sec. 104. The authority conferred under a power of attorney created prior to the effective date of this section, and also for a power of attorney created on or after the effective date of this section, terminates upon the incapacity of the principal unless the writing contains the words "This power of attorney shall not be affected by disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's incapacity.

NEW SECTION. Sec. 105. (1) A power of attorney must be signed and dated by the principal, and the signature must be either acknowledged before a notary public or other individual authorized by law to take acknowledgments, or attested by two or more competent witnesses who are neither home care providers for the principal nor care providers at an adult family home or long-term care facility in which the principal resides, and who are unrelated to the principal or agent by blood, marriage, or state registered domestic partnership, by subscribing their names to the power of attorney, while in the presence of the principal and at the principal's direction or request.

(2) A power of attorney shall be considered signed in accordance with this section if, in the case of a principal who is physically unable to sign his or her name, the principal makes a mark in accordance with RCW 11.12.030, or in the case of a principal who is physically unable to make a mark, the power of attorney is executed in accordance with RCW 64.08.100.

(3) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

NEW SECTION. Sec. 106. (1) A power of attorney executed in this state on or after the effective date of this section is valid if its execution complies with section 105 of this act.

(2) A power of attorney executed in this state before the effective date of this section is valid if its execution complied with the law of this state as it existed at the time of execution.

(3) A power of attorney executed other than in this state is valid in this state if, when the power of attorney was executed, the execution complied with:

(a) The law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 107 of this act; or

(b) The requirements for a military power of attorney pursuant to 10 U.S.C. Sec. 1044b, as amended.

(4) Except as otherwise provided by statute other than this act, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

NEW SECTION. Sec. 107. The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

NEW SECTION. Sec. 108. (1) In a power of attorney, a principal may nominate a guardian of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(2) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of all of the principal's property, the power of attorney is terminated and the agent's authority does not continue unless continued by the court.

(3) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some but not all of the principal's property, the power of attorney shall not terminate or be modified, except to the extent ordered by the court.

NEW SECTION. Sec. 109. (1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(2) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing that the event or contingency has occurred.

(3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing by:

(a) A physician or licensed psychologist, unrelated to the principal or agent by blood or marriage, who has personally

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examined the principal, that the principal is incapacitated within the meaning of section 102(5)(a) of this act; or

(b) A judge or an appropriate governmental official that the principal is incapacitated within the meaning of section 102(5)(b) of this act.

(4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

NEW SECTION. Sec. 110. (1) A power of attorney terminates when:

(a) The principal dies;

(b) The principal becomes incapacitated, if the power of attorney is not durable;

(c) The principal revokes the power of attorney;

(d) The power of attorney provides that it terminates;

(e) The purpose of the power of attorney is accomplished; or

(f) The principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(2) An agent's authority terminates when:

(a) The principal revokes the authority;

(b) The agent dies, becomes incapacitated, or resigns;

(c) An action is filed for the dissolution or annulment of the agent's marriage to the principal or for their legal separation, or an action is filed for dissolution or annulment of the agent's state registered domestic partnership with the principal or for their legal separation, unless the power of attorney otherwise provides; or

(d) The power of attorney terminates.

(3) An agent's authority which has been terminated under subsection (2)(c) of this section shall be reinstated effective immediately in the event that such action is dismissed with the consent of both parties or the petition for dissolution, annulment, or legal separation is withdrawn.

(4) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (2) of this section, notwithstanding a lapse of time since the execution of the power of attorney.

(5) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(6) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(7) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

NEW SECTION. Sec. 111. (1) A principal may designate in a power of attorney two or more persons to act as coagents. Unless the power of attorney otherwise provides, all coagents must exercise their authority jointly; provided, however, a coagent may delegate that coagent's authority to another coagent.

(2) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

(a) Has the same authority as that granted to the original agent; and

(b) May not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(3) Except as otherwise provided in the power of attorney and subsection (4) of this section, an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(4) An agent that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

NEW SECTION. Sec. 112. Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to reasonable compensation.

NEW SECTION. Sec. 113. Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

NEW SECTION. Sec. 114. (1) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(a) Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(b) Act in good faith; and

(c) Act only within the scope of authority granted in the power of attorney.

(2) Except as otherwise provided in the power of attorney, an agent that has accepted appointment shall:

(a) Act loyally for the principal's benefit;

(b) Act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

(c) Act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(d) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(e) Cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and

(f) Attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

(i) The value and nature of the principal's property;

(ii) The principal's foreseeable obligations and need for maintenance;

(iii) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

(iv) Eligibility for a benefit, a program, or assistance under a

statute or rule.

(3) An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(4) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(5) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(6) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(7) An agent that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person, provided however that the agent shall not be relieved of liability for such person's discretionary acts, that, if done by the agent, would result in liability to the agent.

(8) Unless section 111(1) of this act applies, an agent may only delegate authority to another person if expressly authorized to do so in the power of attorney and may delegate some, but not all, of the authority granted by the principal. An agent that exercises authority to delegate to another person the authority granted by the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person, provided however that the agent shall not be relieved of liability for such person's discretionary acts, that, if done by the agent, would result in liability to the agent.

(9) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested in writing by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. Such request by a guardian, conservator, or another fiduciary acting for the principal must be limited to information reasonably related to that guardian, conservator, or fiduciary's duties. If so requested, within thirty days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional thirty days.

**NEW SECTION. Sec. 115.** A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) Relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with gross negligence to the purposes of the power of attorney or the best interest of the principal; or

(2) Was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

**NEW SECTION. Sec. 116.** (1) Except as otherwise provided in the power of attorney, the following persons may bring a petition described in subsection (2) of this section:

(a) The principal or the agent;

(b) The spouse or state registered domestic partner of the principal;

(c) The guardian of the estate or person of the principal;

(d) Any other interested person, as long as the person demonstrates to the court's satisfaction that the person is interested in the welfare of the principal and has a good faith belief that the court's intervention is necessary, and that the principal is incapacitated at the time of filing the petition or otherwise unable to protect his or her own interests; and

(e) A person asked to accept the power of attorney.

(2) A person designated in subsection (1) of this section may file a petition requesting the court to construe a power of attorney or grant any other appropriate relief, including but not limited to:

(a) Determination of whether the power of attorney is in effect or has terminated;

(b) Compelling the agent to submit the agent's accounts or report the agent's acts as agent to the principal, the spouse or state registered domestic partner of the principal, the guardian of the person or the estate of the principal, or to any other person required by the court in its discretion, if the agent has not timely complied with a request under section 114(9) of this act. However, a government agency having authority to protect the welfare of the principal may file a petition upon the agent's refusal or failure to submit an accounting upon written request and shall not be required to wait sixty days;

(c) Ratification of past acts or approval of proposed acts of the agent;

(d) Issuance of an order directing the agent to exercise or refrain from exercising authority in a power of attorney in a particular manner or for a particular purpose;

(e) Modification of the authority of an agent under a power of attorney;

(f) Removal of the agent on a determination by the court of both of the following:

(i) Determination that the agent has violated or is unfit to perform the fiduciary duties under the power of attorney; and

(ii) Determination that the removal of the agent is in the best interest of the principal;

(g) Approval of the resignation of the agent and approval of the final accountings of the resigning agent if submitted, subject to any orders the court determines are necessary to protect the principal's interests;

(h) Confirmation of the authority of a successor agent to act under a power of attorney upon removal or resignation of the previous agent;

(i) Compelling a third person to honor the authority of an agent, provided that a third person may not be compelled to honor the agent's authority if the principal could not compel the third person to act in the same circumstances;

(j) Order the agent to furnish a bond in an amount the court determines to be appropriate.

(3) Any action commenced under this section shall be subject to the notice requirements of chapter 11.96A RCW.

(4) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

(5) Except as otherwise provided in section 120(3)(b) of this act, any action commenced under this section shall be subject to the provisions of RCW 11.96A.150.

**NEW SECTION. Sec. 117.** An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to restore the value of the principal's property to what it would have been had the violation not occurred.

**NEW SECTION. Sec. 118.** Unless the power of attorney has been terminated in accordance with section 108 of this act, or the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal

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and, if the principal is incapacitated:

(1) To the conservator or guardian, if one has been appointed for the principal, and a coagent or successor agent, if designated; or

(2) If there is no person described in subsection (1) of this section:

(a) To any person reasonably believed by the agent to have sufficient interest in the principal's welfare;

(b) To a governmental agency having authority to protect the welfare of the principal; or

(c) By filing notice with the county recorder's office in the county where the principal resides.

NEW SECTION. Sec. 119. (1) For purposes of this section and section 120 of this act, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgments.

(2) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 105 of this act that the signature is genuine.

(3) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the agent's authority were genuine, valid and still in effect, and the agent had not exceeded and had properly exercised the authority.

(4) A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(a) An agent's certification given under penalty of perjury meeting the requirements of subsection (5) of this section; and

(b) An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English.

(5) A certification presented pursuant to subsection (4) of this section or pursuant to section 120 of this act shall state that:

(a) The person presenting himself or herself as the agent and signing the affidavit or declaration is the person so named in the power of attorney;

(b) If the agent is named in the power of attorney as a successor agent, the circumstances or conditions stated in the power of attorney that would cause that person to become the acting agent have occurred;

(c) To the best of the agent's knowledge, the principal is still alive;

(d) To the best of the agent's knowledge, at the time the power of attorney was signed, the principal was competent to execute the document and was not under undue influence to sign the document;

(e) All events necessary to making the power of attorney effective have occurred;

(f) The agent does not have actual knowledge of the revocation, termination, limitation, or modification of the power of attorney or of the agent's authority;

(g) The agent does not have actual knowledge of the existence of other circumstances that would limit, modify, revoke, or terminate the power of attorney or the agent's authority to take the proposed action;

(h) If the agent was married to or in a state registered domestic partnership with the principal at the time of execution of the power of attorney, then at the time of signing the affidavit or declaration, the marriage or state registered domestic partnership

of the principal and the agent has not been dissolved or declared invalid, and no action is pending for the dissolution of the marriage or domestic partnership or for legal separation; and

(i) The agent is acting in good faith pursuant to the authority given under the power of attorney.

(6) An English translation requested under this section must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(7) For purposes of this section and section 120 of this act, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

NEW SECTION. Sec. 120. (1) Except as otherwise provided in subsection (2) of this section:

(a) A person shall either accept an acknowledged power of attorney or request a certification or a translation no later than seven business days after presentation of the power of attorney for acceptance;

(b) If a person requests a certification or a translation, the person shall accept the power of attorney no later than five business days after receipt of the certification or translation; and

(c) A person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(2) A person is not required to accept an acknowledged power of attorney if:

(a) The person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) Engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(c) The person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) A request for a certification or a translation is refused;

(e) The person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification or a translation has been requested or provided; or

(f) The person makes, or has actual knowledge that another person has made, a report to the department of social and health services stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(3) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

(a) A court order mandating acceptance of the power of attorney; and

(b) Liability for reasonable attorneys' fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

NEW SECTION. Sec. 121. Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

NEW SECTION. Sec. 122. This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

NEW SECTION. Sec. 123. The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

#### PART II

NEW SECTION. Sec. 201. (1) An agent under a power of

attorney may, subject to the requirements of section 114 of this act, and in particular section 114(2)(f) of this act, do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

- (a) Create, amend, revoke, or terminate an inter vivos trust;
- (b) Make a gift;
- (c) Create or change rights of survivorship;
- (d) Create or change a beneficiary designation;
- (e) Delegate some but not all of the authority granted under the power of attorney, except as otherwise provided in section 111(1) of this act;
- (f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- (g) Exercise fiduciary powers that the principal has authority to delegate;
- (h) Exercise any power of appointment in favor of anyone other than the principal;
- (i) Create, amend, or revoke a community property agreement;
- (j) Cause a trustee to make distributions of property held in trust under the same conditions that the principal could;
- (k) Make any other provisions for nonprobate transfer at death contained in nontestamentary instruments described in RCW 11.02.091;
- (l) Make health care decisions for the principal, or give informed consent to health care decisions on the principal's behalf.

(2) Notwithstanding the provisions of subsection (1)(a) of this section, an agent may, even in the absence of a specific grant of authority, make transfers of property to any trust that benefits the principal alone and does not have dispositive provisions that are different from those that would have governed the property had it not been transferred into such trust.

(3) Notwithstanding the provisions of subsection (1)(b) of this section, an agent may, even in the absence of a specific grant of authority, make any transfer of resources not prohibited under chapter 74.09 RCW when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy.

(4) Notwithstanding a grant of authority to do an act described in subsection (1) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, state registered domestic partner, or descendant of the principal, may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(5) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 216 of this act.

(6) Subject to subsections (1) through (5) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(7) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(8) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

NEW SECTION. Sec. 202. (1) Subject to the provisions of

section 201 of this act, if a power of attorney grants to an agent authority to do all acts that a principal could do or contains words of similar effect, the agent has the general authority described in sections 203 through 218 of this act.

(2) An agent has authority described in this act if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 204 through 218 of this act or cites the section in which the authority is described.

(3) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 204 through 218 of this act or a citation to a section of sections 204 through 218 of this act incorporates the entire section as if it were set out in full in the power of attorney.

(4) A principal may modify authority incorporated by reference.

NEW SECTION. Sec. 203. Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 204 through 218 of this act or that grants to an agent authority to do all acts that a principal could do pursuant to section 202(1) of this act, a principal authorizes the agent, with respect to that subject, to:

(1) Demand, receive, and obtain by litigation or otherwise, declaratory or injunctive relief, money, or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, investment manager, expert witness, or other advisor;

(7) Prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) Communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality, on behalf of the principal;

(9) Access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) Do any lawful act with respect to the subject and all property related to the subject.

NEW SECTION. Sec. 204. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) Demand; buy; sublease; license; receive; accept as a gift or as security for an extension of credit; or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) Sell; exchange; convey with or without reservations,

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covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant, common interest regime; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; license; contribute to an entity in exchange for an interest in that entity; or, subject to section 201 of this act, otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) Pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, extend the time of payment of a debt of the principal or a debt guaranteed by the principal, or as security for a nonmonetary obligation;

(4) Release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property which exists or is asserted;

(5) Manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(a) Insuring against liability or casualty or other loss;

(b) Obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(c) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(d) Purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) Participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(a) Selling or otherwise disposing of them;

(b) Exercising or selling an option, right of conversion, or similar right with respect to them; and

(c) Exercising any voting rights in person or by proxy;

(8) Change the form of title of an interest in or right incident to real property; and

(9) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

NEW SECTION. Sec. 205. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) Demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) Sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or, otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) Grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) Release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the

principal, with respect to tangible personal property or an interest in tangible personal property;

(5) Manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(a) Insuring against liability or casualty or other loss;

(b) Obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(c) Paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(d) Moving the property from place to place;

(e) Storing the property for hire or on a gratuitous bailment; and

(f) Using and making repairs, alterations, or improvements to the property; and

(6) Change the form of title of an interest in tangible personal property.

NEW SECTION. Sec. 206. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks, bonds, and financial instruments authorizes the agent to:

(1) Buy, sell, and exchange stocks, bonds, and financial instruments;

(2) Establish, continue, modify, or terminate an account with respect to stocks, bonds, and financial instruments;

(3) Pledge stocks, bonds, and financial instruments as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) Receive certificates and other evidences of ownership with respect to stocks, bonds, and financial instruments;

(5) Exercise voting rights with respect to stocks, bonds, and financial instruments in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote;

(6) Buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(7) Establish, continue, modify, and terminate option accounts.

NEW SECTION. Sec. 207. Except as otherwise expressly provided in this act and in chapter 30A.22 RCW, unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) Contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) Withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) Receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) Enter a safe deposit box or vault and withdraw or add to the contents;

(7) Borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable

or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(9) Receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) Apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

NEW SECTION. Sec. 208. Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) Operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) Perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) Enforce the terms of an ownership agreement;

(4) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks, bonds, and financial instruments;

(6) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks, bonds, and financial instruments;

(7) With respect to an entity or business owned solely by the principal:

(a) Continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(b) Determine:

(i) The location of its operation;

(ii) The nature and extent of its business;

(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) The amount and types of insurance carried; and

(v) The mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(c) Change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(d) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) Put additional capital into an entity or business in which the principal has an interest;

(9) Join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) Sell or liquidate all or part of an entity or business;

(11) Establish through agreement or independent appraisal the value of an entity or business to which the principal is a party;

(12) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) Pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

NEW SECTION. Sec. 209. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) Continue, pay the premium or make a contribution on, modify, exchange, sell, rescind, release, or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) Procure new, different, and additional contracts of insurance and annuities for the benefit of the principal and the principal's spouse, state registered domestic partner, children, and other dependents, and select the amount, type of insurance or annuity, and mode of payment;

(3) Pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) Apply for and receive a loan secured by a contract of insurance or annuity;

(5) Surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) Exercise an election;

(7) Exercise investment powers available under a contract of insurance or annuity;

(8) Change the manner of paying premiums on a contract of insurance or annuity;

(9) Change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) Apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) Collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) Select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) Pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

NEW SECTION. Sec. 210. (1) In this section, "estates, trusts, and other beneficial interests" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be, entitled to a share or payment.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(a) Accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from the fund;

(b) Demand or obtain money or another thing of value to which the principal is, may become, or claims to be, entitled by reason of the fund, by litigation or otherwise;

(c) Exercise for the benefit of the principal a presently

exercisable general power of appointment held by the principal;

(d) Exercise for the benefit of the principal a presently exercisable limited power of appointment held by the principal;

(e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(f) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary, and any other matter as defined under RCW 11.96A.030;

(g) Conserve, invest, disburse, or use anything received for an authorized purpose;

(h) Transfer an interest of the principal in real property, stocks, bonds, and financial instruments, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor, subject to the limitations in section 201(1) of this section; and

(i) Reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from the fund.

NEW SECTION. Sec. 211. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent, without the need for appointment of a guardian or guardian ad litem under Title 4 RCW, to:

(1) Assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) Bring or defend an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) Seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) Make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;

(5) Submit to alternative dispute resolution, settle, and propose or accept a compromise, subject to special proceeding rule 98.16W;

(6) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute, and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) Act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value;

(8) Pay a judgment, award, or order against the principal or a

settlement made in connection with a claim or litigation; and

(9) Receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

NEW SECTION. Sec. 212. (1) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(a) Perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse or state registered domestic partner, and the following individuals, whether living when the power of attorney is executed or later born:

(i) The principal's children;

(ii) Other individuals legally entitled to be supported by the principal; and

(iii) The individuals whom the principal has customarily supported or indicated the intent to support;

(b) Make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(c) Provide living quarters for the individuals described in subsection (1) of this section by:

(i) Purchase, lease, or other contract; or

(ii) Paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(d) Provide reasonable domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in subsection (1) of this section;

(e) Pay expenses for necessary health care and custodial care on behalf of the individuals described in subsection (1) of this section;

(f) Act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable regulations, for the limited purpose of making decisions regarding the payment of costs and expenses arising from past, present, or future health care provided to the principal which was consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(g) Continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subsection (1) of this section;

(h) Maintain credit and debit accounts for the convenience of the individuals described in subsection (1) of this section and open new accounts; and

(i) Continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(2) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this act.

NEW SECTION. Sec. 213. (1) In this section, "benefits from governmental programs or civil or military service" means any benefit, program or assistance provided under a statute or regulation including social security, medicare, and medicaid.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(a) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in section 212(1)(a) of this act, and for shipment of their household effects;

(b) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(c) Enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(d) Prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(e) Initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(f) Receive the financial proceeds of a claim described in (d) of this subsection and conserve, invest, disburse, or use for a lawful purpose anything so received.

NEW SECTION. Sec. 214. (1) In this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including but not limited to a plan or account under the following sections of the internal revenue code:

(a) An individual retirement account under internal revenue code section 408, 26 U.S.C. Sec. 408, as amended;

(b) A roth individual retirement account under internal revenue code section 408A, 26 U.S.C. Sec. 408A, as amended;

(c) A deemed individual retirement account under internal revenue code section 408(q), 26 U.S.C. Sec. 408(q), as amended;

(d) An annuity or mutual fund custodial account under internal revenue code section 403(b), 26 U.S.C. Sec. 403(b), as amended;

(e) A pension, profit-sharing, stock bonus, or other retirement plan qualified under internal revenue code section 401(a), 26 U.S.C. Sec. 401(a), as amended;

(f) A plan under internal revenue code section 457(b), 26 U.S.C. Sec. 457(b), as amended; and

(g) A nonqualified deferred compensation plan under internal revenue code section 409A, 26 U.S.C. Sec. 409A, as amended.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(a) Select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(b) Make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(c) Establish a retirement plan in the principal's name;

(d) Make contributions to a retirement plan;

(e) Exercise investment powers available under a retirement plan; and

(f) Borrow from, sell assets to, or purchase assets from a retirement plan.

NEW SECTION. Sec. 215. Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, federal insurance contributions act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other

tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under internal revenue code section 2032A, 26 U.S.C. Sec. 2032A, as amended, closing agreements, and any power of attorney required by the internal revenue service or other taxing authority including, but not limited to, an internal revenue service form 2848 in favor of any third party with respect to a tax year upon which the statute of limitations has not run and the following twenty-five tax years;

(2) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the internal revenue service or other taxing authority;

(3) Exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) Act for the principal in all tax matters for all periods before the internal revenue service, or other taxing authority.

NEW SECTION. Sec. 216. (1) In this section, a gift "for the benefit of" a person includes but is not limited to a gift to a trust, an account under the uniform transfers to minors act of any jurisdiction, and a tuition savings account or prepaid tuition plan as defined under internal revenue code section 529, 26 U.S.C. Sec. 529, as amended. Notwithstanding the terms of section 201(1)(a) of this act, the power to make a gift pursuant to section 201(1)(b) of this act shall include the power to create a trust, an account under the uniform transfers to minors act, or a tuition savings account or prepaid tuition plan as defined under internal revenue code section 529, 26 U.S.C. Sec. 529, as amended, into which a gift is to be made.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:

(a) Make outright to, or for the benefit of, a person, a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under internal revenue code section 2503(b), 26 U.S.C. Sec. 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to internal revenue code section 2513, 26 U.S.C. Sec. 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) Consent, pursuant to internal revenue code section 2513, 26 U.S.C. Sec. 2513, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(3) An agent may make a gift outright to, or for the benefit of, a person of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including but not limited to:

(a) The value and nature of the principal's property;

(b) The principal's foreseeable obligations and need for maintenance;

(c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

(d) Eligibility for a benefit, a program, or assistance under a statute or rule; and

(e) The principal's personal history of making or joining in making gifts.

NEW SECTION. Sec. 217. Unless the power of attorney otherwise provides, where language in a power of attorney grants general authority with respect to health care matters:

(1) The agent shall be authorized to act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171 through 1179 of

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the social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable regulations for all purposes thereunder, including but not limited to accessing and acquiring the principal's health care related information.

(2) The agent shall be authorized to provide informed consent for health care decisions on the principal's behalf. If a principal has appointed more than one agent with authority to make mental health treatment decisions in accordance with a directive under chapter 71.32 RCW, to the extent of any conflict, the most recently appointed agent shall be treated as the principal's agent for mental health treatment decisions unless provided otherwise in either appointment.

(3) Unless he or she is the spouse, state registered domestic partner, father or mother, or adult child or brother or sister of the principal, none of the following persons may act as the agent for the principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility or long-term care facility as defined in RCW 43.190.020 where the principal resides or receives care. Except when the principal has consented in a mental health advance directive executed under chapter 71.32 RCW to inpatient admission or electroconvulsive therapy, this authorization is subject to the same limitations as those that apply to a guardian under RCW 11.92.043(5) (a) through (c) and 11.92.190.

NEW SECTION. Sec. 218. Unless the power of attorney otherwise provides, the following general provisions shall apply to any power of attorney making reference to the care of the principal's minor children:

(1) A parent or guardian, through a power of attorney, may authorize an agent to make health care decisions on behalf of one or more of his or her children, or children for whom he or she is the legal guardian, who are under the age of majority as defined in RCW 26.28.015, to be effective if the child has no other parent or legal representative readily available and authorized to give such consent.

(2) A principal may further nominate a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of making the durable power of attorney or afterwards, to continue during the disability of the principal, during the minority of the child or for any less time by including such a provision in his or her power of attorney.

(3) The authority of any guardian of the person of any minor child shall supersede the authority of a designated agent to make health care decisions for the minor only after such designated guardian has been appointed by the court.

(4) In the event a conflict between the provisions of a will nominating a testamentary guardian under the authority of RCW 11.88.080 and the nomination of a guardian under the authority of this statute, the most recent designation shall control.

NEW SECTION. Sec. 219. Notwithstanding any provision in this act, or any provision in a power of attorney, no rights under Washington's death with dignity act, chapter 70.245 RCW, may be exercised through a power of attorney.

PART III

NEW SECTION. Sec. 301. The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of
County ]
I,

(Name of Agent), under penalty of perjury that (Name of Principal) granted me authority as an agent or

successor agent in a power of attorney dated \_\_\_\_\_

I further that to my knowledge:

(1) I am acting in good faith pursuant to the authority given under the power of attorney;

(2) The principal is alive and has not terminated, revoked, limited, or modified the power of attorney or my authority to act under the power of attorney; nor has the power of attorney or my authority to act under the power of attorney been terminated, revoked, limited, or modified by any other circumstances;

(3) When the power of attorney was signed, the principal was competent to execute it and was not under undue influence to sign;

(4) All events necessary to making the power of attorney effective have occurred;

(5) If I was married or a registered domestic partner of the principal when the power of attorney was executed, there has been no subsequent dissolution, annulment, or legal separation, and no action is pending for the dissolution of the marriage or domestic partnership or for legal separation;

(6) If the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(7) If I was named as a successor agent, the prior agent is no longer able or willing to serve, or the conditions stated in the power of attorney that cause me to become the acting agent have occurred; and

(8) \_\_\_\_\_

(Insert other relevant statements) SIGNATURE AND ACKNOWLEDGMENT

Agent's Signature Date

Agent's Name Printed

Agent's Address

Agent's Telephone Number

This document was acknowledged before me on , (Date)

by (Name of Agent) (Seal, if any)

Signature of Notary My commission expires:

PART IV

Sec. 401. RCW 11.88.080 and 2005 c 97 s 11 are each amended to read as follows:

When either parent is deceased, the surviving parent of any minor child or a sole parent of a minor child, may by last will or durable power of attorney nominate a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of executing the instrument or afterwards, to continue during the minority of such child or for any less time. This nomination shall be effective in the event of the death or incapacity of such parent. Every guardian of the estate of a child shall give bond in like manner and with like conditions as required by RCW 11.88.100 and 11.88.110, and he or she shall have the same powers and perform the same duties with regard to the person and estate of the minor as a guardian appointed under

this chapter. The court shall confirm the parent's nomination unless the court finds, based upon evidence presented at a hearing on the matter, that the individual nominated in the surviving parent's will or durable power of attorney is not qualified to serve. In the event of a conflict between the provisions of a will nominating a testamentary guardian under the authority of this section and the nomination of a guardian under section 218 of this act, the most recent designation shall control. This section applies to actions commenced under section 116 of this act.

Sec. 402. RCW 11.86.021 and 1989 c 34 s 2 are each amended to read as follows:

(1) A beneficiary may disclaim an interest in whole or in part, or with reference to specific parts, shares or assets, in the manner provided in RCW 11.86.031.

(2) Likewise, a beneficiary may so disclaim through an agent or attorney so authorized by written instrument.

(3) A personal representative, guardian, attorney-in-fact if authorized under a durable power of attorney under chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act), or other legal representative of the estate of a minor, incompetent, or deceased beneficiary, may so disclaim on behalf of the beneficiary, with or without court order, if:

(a) The legal representative deems the disclaimer to be in the best interests of those interested in the estate of the beneficiary and of those who take the disclaimed interest because of the disclaimer, and not detrimental to the best interests of the beneficiary; and

(b) In the case of a guardian, no order has been issued under RCW 11.92.140 determining that the disclaimer is not in the best interests of the beneficiary.

Sec. 403. RCW 11.88.010 and 2008 c 6 s 802 are each amended to read as follows:

(1) The superior court of each county shall have power to appoint guardians for the persons and/or estates of incapacitated persons, and guardians for the estates of nonresidents of the state who have property in the county needing care and attention.

(a) For purposes of this chapter, a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety.

(b) For purposes of this chapter, a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.

(c) A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate. Age, eccentricity, poverty, or medical diagnosis alone shall not be sufficient to justify a finding of incapacity.

(d) A person may also be determined incapacitated if he or she is under the age of majority as defined in RCW 26.28.010.

(e) For purposes of giving informed consent for health care pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any person who is (i) incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his or her property or caring for himself or herself, or both, or (ii) incapacitated as defined in (a), (b), or (d) of this subsection.

(f) For purposes of the terms "incompetent," "disabled," or "not legally competent," as those terms are used in the Revised Code of Washington to apply to persons incapacitated under this chapter, those terms shall be interpreted to mean "incapacitated" persons for purposes of this chapter.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of incapacitated persons, who by reason of their incapacity have need for protection and assistance, but who are capable of managing some of their personal and financial affairs. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and restrictions on an incapacitated person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incapacitated nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged incapacitated person is domiciled, or if such person resides in a facility supported in whole or in part by local, state, or federal funding sources, in either the county where the facility is located, the county of domicile prior to residence in the supported facility, or the county where a parent or spouse or domestic partner of the alleged incapacitated person is domiciled.

If the alleged incapacitated person's residency has changed within one year of the filing of the petition, any interested person may move for a change of venue for any proceedings seeking the appointment of a guardian or a limited guardian under this chapter to the county of the alleged incapacitated person's last place of residence of one year or more. The motion shall be granted when it appears to the court that such venue would be in the best interests of the alleged incapacitated person and would promote more complete consideration of all relevant matters.

(4) Under ((RCW 11.94.010)) section 108 of this act, a principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if guardianship proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

(5) Imposition of a guardianship for an incapacitated person shall not result in the loss of the right to vote unless the court determines that the person is incompetent for purposes of rationally exercising the franchise in that the individual lacks the capacity to understand the nature and effect of voting such that she or he cannot make an individual choice. The court order establishing guardianship shall specify whether or not the individual retains voting rights. When a court determines that the person is incompetent for the purpose of rationally exercising the right to vote, the court shall notify the appropriate county auditor.

Sec. 404. RCW 11.103.030 and 2013 c 272 s 24 are each amended to read as follows:

(1) Unless the terms of a trust expressly provide that the trust is revocable, the trustor may not revoke or amend the trust.

(2) If a revocable trust is created or funded by more than one trustor and unless the trust agreement provides otherwise:

(a) To the extent the trust consists of community property, the trust may be revoked by either spouse or either domestic partner acting alone but may be amended only by joint action of both spouses or both domestic partners;

(b) To the extent the trust consists of property other than community property, each trustor may revoke or amend the trust with regard to the portion of the trust property attributable to that trustor's contribution;

(c) The character of community property or separate property

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is unaffected by its transfer to and from a revocable trust; and

(d) Upon the revocation or amendment of the trust by fewer than all of the trustors, the trustee must promptly notify the other trustors of the revocation or amendment.

(3) The trustor may revoke or amend a revocable trust:

(a) By substantial compliance with a method provided in the terms of the trust; or

(b)(i) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

(A) A later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or

(B) A written instrument signed by the trustor evidencing intent to revoke or amend.

(ii) The requirements of chapter 11.11 RCW do not apply to revocation or amendment of a revocable trust under (b)(i) of this subsection.

(4) Upon revocation of a revocable trust, the trustee must deliver the trust property as the trustor directs.

(5) A trustor's powers with respect to the revocation or amendment of a trust or distribution of the property of a trust(,) may be exercised by the trustor's agent under a power of attorney only to the extent specified in the power of attorney document, as provided in ((RCW 11.94.050(1))) section 201 of this act and to the extent consistent with or expressly authorized by the trust agreement.

(6) A guardian of the trustor may exercise a trustor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the guardianship pursuant to RCW 11.92.140.

(7) A trustee who does not know that a trust has been revoked or amended is not liable to the trustor or trustor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

(8) This section does not limit or affect operation of RCW 11.96A.220 through 11.96A.240.

Sec. 405. RCW 30A.22.170 and 1981 c 192 s 17 are each amended to read as follows:

Any funds on deposit in an account may be paid by a financial institution to or upon the order of any agent of any depositor. The contract of deposit or other document creating such agency may provide, in accordance with chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act), that any such agent's powers to receive payments and make withdrawals from an account continues in spite of, or arises by virtue of, the incompetency of a depositor, in which event the agent's powers to make payments and withdrawals from an account on behalf of a depositor is not affected by the incompetency of a depositor. Except as provided in this section, the authority of an agent to receive payments or make withdrawals from an account terminates with the death or incompetency of the agent's principal: PROVIDED, That a financial institution is not liable for any payment or withdrawal made to or by an agent for a deceased or incompetent depositor unless the financial institution making the payment or permitting the withdrawal had actual knowledge of the incompetency or death at the time payment was made.

Sec. 406. RCW 70.122.130 and 2013 c 251 s 12 are each amended to read as follows:

(1) The department of health shall establish and maintain a statewide health care declarations registry containing the health care declarations identified in subsection (2) of this section as submitted by residents of Washington. The department shall digitally reproduce and store health care declarations in the registry. The department may establish standards for individuals

to submit digitally reproduced health care declarations directly to the registry, but is not required to review the health care declarations that it receives to ensure they comply with the particular statutory requirements applicable to the document. The department may contract with an organization that meets the standards identified in this section.

(2)(a) An individual may submit any of the following health care declarations to the department of health to be digitally reproduced and stored in the registry:

(i) A directive, as defined by this chapter;

(ii) A durable power of attorney for health care, as authorized in chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act);

(iii) A mental health advance directive, as defined by chapter 71.32 RCW; or

(iv) A form adopted pursuant to the department of health's authority in RCW 43.70.480.

(b) Failure to submit a health care declaration to the department of health does not affect the validity of the declaration.

(c) Failure to notify the department of health of a valid revocation of a health care declaration does not affect the validity of the revocation.

(d) The entry of a health care directive in the registry under this section does not:

(i) Affect the validity of the document;

(ii) Take the place of any requirements in law necessary to make the submitted document legal; or

(iii) Create a presumption regarding the validity of the document.

(3) The department of health shall prescribe a procedure for an individual to revoke a health care declaration contained in the registry.

(4) The registry must:

(a) Be maintained in a secure database that is accessible through a web site maintained by the department of health;

(b) Send annual electronic messages to individuals that have submitted health care declarations to request that they review the registry materials to ensure that it is current;

(c) Provide individuals who have submitted one or more health care declarations with access to their documents and the ability to revoke their documents at all times; and

(d) Provide the personal representatives of individuals who have submitted one or more health care declarations to the registry, attending physicians, advanced registered nurse practitioners, health care providers licensed by a disciplining authority identified in RCW 18.130.040 who is acting under the direction of a physician or an advanced registered nurse practitioner, and health care facilities, as defined in this chapter or in chapter 71.32 RCW, access to the registry at all times.

(5) In designing the registry and web site, the department of health shall ensure compliance with state and federal requirements related to patient confidentiality.

(6) The department shall provide information to health care providers and health care facilities on the registry web site regarding the different federal and Washington state requirements to ascertain and document whether a patient has an advance directive.

(7) The department of health may accept donations, grants, gifts, or other forms of voluntary contributions to support activities related to the creation and maintenance of the health care declarations registry and statewide public education campaigns related to the existence of the registry. All receipts from donations made under this section, and other contributions and appropriations specifically made for the purposes of creating

and maintaining the registry established under this section and statewide public education campaigns related to the existence of the registry, shall be deposited into the general fund. These moneys in the general fund may be spent only after appropriation.

(8) The department of health may adopt rules as necessary to implement chapter 108, Laws of 2006.

(9) By December 1, 2008, the department shall report to the house and senate committees on health care the following information:

(a) Number of participants in the registry;

(b) Number of health care declarations submitted by type of declaration as defined in this section;

(c) Number of health care declarations revoked and the method of revocation;

(d) Number of providers and facilities, by type, that have been provided access to the registry;

(e) Actual costs of operation of the registry.

Sec. 407. RCW 71.32.020 and 2011 c 89 s 15 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act).

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or RCW 11.88.010(1)(e).

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be incompetent pursuant to RCW 11.88.010(1)(e).

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of

this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, 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 chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

Sec. 408. RCW 71.32.050 and 2003 c 283 s 5 are each amended to read as follows:

(1) An adult with capacity may execute a mental health advance directive.

(2) A directive executed in accordance with this chapter is presumed to be valid. The inability to honor one or more provisions of a directive does not affect the validity of the remaining provisions.

(3) A directive may include any provision relating to mental health treatment or the care of the principal or the principal's personal affairs. Without limitation, a directive may include:

(a) The principal's preferences and instructions for mental health treatment;

(b) Consent to specific types of mental health treatment;

(c) Refusal to consent to specific types of mental health treatment;

(d) Consent to admission to and retention in a facility for mental health treatment for up to fourteen days;

(e) Descriptions of situations that may cause the principal to experience a mental health crisis;

(f) Suggested alternative responses that may supplement or be in lieu of direct mental health treatment, such as treatment approaches from other providers;

(g) Appointment of an agent pursuant to chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act) to make mental health treatment decisions on the principal's behalf, including authorizing the agent to provide consent on the principal's behalf to voluntary admission to inpatient mental health treatment; and

(h) The principal's nomination of a guardian or limited guardian as provided in ((RCW 11.94.010)) section 108 of this act for consideration by the court if guardianship proceedings are commenced.

(4) A directive may be combined with or be independent of a nomination of a guardian or other durable power of attorney under chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act), so long as the processes for each are executed in accordance with its own statutes.

Sec. 409. RCW 71.32.060 and 2003 c 283 s 6 are each amended to read as follows:

(1) A directive shall:

(a) Be in writing;

(b) Contain language that clearly indicates that the principal intends to create a directive;

(c) Be dated and signed by the principal or at the principal's direction in the principal's presence if the principal is unable to sign;

(d) Designate whether the principal wishes to be able to revoke the directive during any period of incapacity or wishes to be unable to revoke the directive during any period of incapacity; and

(e) Be witnessed in writing by at least two adults, each of

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whom shall declare that he or she personally knows the principal, was present when the principal dated and signed the directive, and that the principal did not appear to be incapacitated or acting under fraud, undue influence, or duress.

(2) A directive that includes the appointment of an agent pursuant to a power of attorney under chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act) shall contain the words "This power of attorney shall not be affected by the incapacity of the principal," or "This power of attorney shall become effective upon the incapacity of the principal," or similar words showing the principal's intent that the authority conferred shall be exercisable notwithstanding the principal's incapacity.

(3) A directive is valid upon execution, but all or part of the directive may take effect at a later time as designated by the principal in the directive.

(4) A directive may:

(a) Be revoked, in whole or in part, pursuant to the provisions of RCW 71.32.080; or

(b) Expire under its own terms.

Sec. 410. RCW 71.32.100 and 2003 c 283 s 10 are each amended to read as follows:

(1) If a directive authorizes the appointment of an agent, the provisions of chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act) and RCW 7.70.065 shall apply unless otherwise stated in this chapter.

(2) The principal who appoints an agent must notify the agent in writing of the appointment.

(3) An agent must act in good faith.

(4) An agent may make decisions on behalf of the principal. Unless the principal has revoked the directive, the decisions must be consistent with the instructions and preferences the principal has expressed in the directive, or if not expressed, as otherwise known to the agent. If the principal's instructions or preferences are not known, the agent shall make a decision he or she determines is in the best interest of the principal.

(5) Except to the extent the right is limited by the appointment or any federal or state law, the agent has the same right as the principal to receive, review, and authorize the use and disclosure of the principal's health care information when the agent is acting on behalf of the principal and to the extent required for the agent to carry out his or her duties. This subsection shall be construed to be consistent with chapters 70.02, 70.24, 70.96A, 71.05, and 71.34 RCW, and with federal law regarding health care information.

(6) Unless otherwise provided in the appointment and agreed to in writing by the agent, the agent is not, as a result of acting in the capacity of agent, personally liable for the cost of treatment provided to the principal.

(7) An agent may resign or withdraw at any time by giving written notice to the principal. The agent must also give written notice to any health care provider, professional person, or health care facility providing treatment to the principal. The resignation or withdrawal is effective upon receipt unless otherwise specified in the resignation or withdrawal.

(8) If the directive gives the agent authority to act while the principal has capacity, the decisions of the principal supersede those of the agent at any time the principal has capacity.

(9) Unless otherwise provided in the durable power of attorney, the principal may revoke the agent's appointment as provided under other state law.

Sec. 411. RCW 71.32.180 and 2003 c 283 s 18 are each amended to read as follows:

(1) Where an incapacitated principal has executed more than one valid directive and has not revoked any of the directives:

(a) The directive most recently created shall be treated as the principal's mental health treatment preferences and instructions as to any inconsistent or conflicting provisions, unless provided otherwise in either document.

(b) Where a directive executed under this chapter is inconsistent with a directive executed under any other chapter, the most recently created directive controls as to the inconsistent provisions.

(2) Where an incapacitated principal has appointed more than one agent under chapter ((11.94)) 11.-- RCW (the new chapter created in section 505 of this act) with authority to make mental health treatment decisions, ((RCW 11.94.010)) section 217 of this act controls.

(3) The treatment provider shall inquire of a principal whether the principal is subject to any court orders that would affect the implementation of his or her directive.

Sec. 412. RCW 71.32.200 and 2003 c 283 s 20 are each amended to read as follows:

Any person with reasonable cause to believe that a directive has been created or revoked under circumstances amounting to fraud, duress, or undue influence may petition the court for appointment of a guardian for the person or to review the actions of the agent or person alleged to be involved in improper conduct under ((RCW 11.94.090)) section 116 of this act or RCW 74.34.110.

Sec. 413. RCW 71.32.260 and 2009 c 217 s 14 are each amended to read as follows:

The directive shall be in substantially the following form:

Mental Health Advance Directive  
NOTICE TO PERSONS  
CREATING A MENTAL HEALTH ADVANCE  
DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

**YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

**IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

**YOU MAY NOT REVOKE THIS DIRECTIVE WHEN**

YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

PART I.

STATEMENT OF INTENT TO CREATE A MENTAL HEALTH ADVANCE DIRECTIVE

I, . . . . . being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

PART II.

WHEN THIS DIRECTIVE IS EFFECTIVE YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (YOU MUST CHOOSE ONLY ONE):

- . . . . . Immediately upon my signing of this directive.
. . . . . If I become incapacitated.
. . . . . When the following circumstances, symptoms, or behaviors occur:

PART III.

DURATION OF THIS DIRECTIVE YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (YOU MUST CHOOSE ONLY ONE):

- . . . . . Remain valid and in effect for an indefinite period of time.
. . . . . Automatically expire . . . . . years from the date it was created.

PART IV.

WHEN I MAY REVOKE THIS DIRECTIVE YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (YOU MUST CHOOSE ONLY ONE):

- . . . . . Only when I have capacity.
I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.
. . . . . Even if I am incapacitated.
I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART V.

PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS OR PSYCHIATRIC ADVANCED REGISTERED NURSE PRACTITIONERS

A. Preferences and Instructions About Physician(s) or Psychiatric Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment

I would like the physician(s) or psychiatric advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

- Dr. or PARNP . . . . . Contact information:
Dr. or PARNP . . . . . Contact information:

I do not wish to be treated by Dr. or PARNP

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

- Name . . . . . Profession . . . . .
. . . . . Contact information
Name . . . . . Profession . . . . .
. . . . . Contact information

C. Preferences and Instructions About Medications for Psychiatric Treatment (initial and complete all that apply)

- . . . . . I consent, and authorize my agent (if appointed) to consent, to the following medications:
. . . . . I do not consent, and I do not authorize my agent (if

appointed) to consent, to the administration of the following medications:

..... I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include

and these side effects can be eliminated by dosage adjustment or other means

..... I am willing to try any other medication the hospital doctor or psychiatric advanced registered nurse practitioner recommends

..... I am willing to try any other medications my outpatient doctor or psychiatric advanced registered nurse practitioner recommends

..... I do not want to try any other medications.

Medication Allergies

I have allergies to, or severe side effects from, the following:

Other Medication Preferences or Instructions

..... I have the following other preferences or instructions about medications

D. Preferences and Instructions About Hospitalization and Alternatives

(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)

..... In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

..... I would also like the interventions below to be tried before hospitalization is considered:

..... Calling someone or having someone call me when needed.

Name: Telephone:

..... Staying overnight with someone

Name: Telephone:

..... Having a mental health service provider come to see me

..... Going to a crisis triage center or emergency room

..... Staying overnight at a crisis respite (temporary) bed

..... Seeing a service provider for help with psychiatric medications

..... Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for ..... days (not to exceed 14 days)

(Sign one):

..... If deemed appropriate by my agent (if appointed) and treating physician or psychiatric advanced registered nurse practitioner

(Signature)

Or

..... Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)

(Signature)

..... I do not consent, or authorize my agent (if appointed) to consent, to inpatient treatment

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(initial all that apply):

..... "Talk me down" one-on-one

..... More medication

..... Time out/privacy

..... Show of authority/force

..... Shift my attention to something else

..... Set firm limits on my behavior

..... Help me to discuss/vent feelings

..... Decrease stimulation

..... Offer to have neutral person settle dispute

..... Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on):

..... Seclusion

..... Seclusion and physical restraint (combined)

..... Medication by injection

..... Medication in pill or liquid form

In the event that my attending physician or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy

(ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (sign one):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:

(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name:

Name:

Name:

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care  
Other instructions about my mental health care:

In case of emergency, please contact:

Name: Address:  
Work telephone: Home telephone:  
Physician or Psychiatric Address:  
Advanced Registered  
Nurse Practitioner:  
Telephone:

The following may help me to avoid a hospitalization:

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following:

J. Refusal of Treatment

I do not consent to any mental health treatment.

(Signature)

PART VI.

DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(Fill out this part only if you wish to appoint an agent or nominate a guardian.)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document and my agent does not otherwise know my wishes, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name: Address:  
Work telephone: Home telephone:  
Relationship:

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name: Address:  
Work telephone: Home telephone:  
Relationship:

C. When My Spouse is My Agent (initial if desired)

... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I

have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I nominate the following person as my guardian:

Name: Address:  
Work telephone: Home telephone:  
Relationship:

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

(Signature required)

PART VII.

OTHER DOCUMENTS

(Initial all that apply)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

... Health care power of attorney (chapter ((11.94)) 11.— RCW (the new chapter created in section 505 of this act))

... "Living will" (Health care directive; chapter 70.122 RCW)

... I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

PART VIII.

NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(Fill out this part only if you wish to provide nontreatment instructions.)

I understand the preferences and instructions in this part are NOT the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name: Address:  
Day telephone: Evening telephone:  
Name: Address:  
Day telephone: Evening telephone:

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

C. Additional Preferences and Instructions:

PART IX.

SIGNATURE

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I

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intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: Date:
Printed Name:

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

- (A) A person designated to make medical decisions on the principal's behalf;
(B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;
(C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;
(D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;
(E) An incapacitated person;
(F) A person who would benefit financially if the principal undergoes mental health treatment; or
(G) A minor.

Witness 1: Signature: Date:
Printed Name:
Telephone: Address:
Witness 2: Signature: Date:

Printed Name:
Telephone: Address:

PART X.
RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons:

DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

PART XI.

REVOCAION OF THIS DIRECTIVE

(Initial any that apply):

..... I am revoking the following part(s) of this directive (specify):

..... I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature: Date:
Printed Name:

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS DIRECTIVE IN PART OR IN WHOLE

PART V

NEW SECTION. Sec. 501. In applying and construing this uniform act, consideration must be given to the need to promote

uniformity of the law with respect to its subject matter among the states that enact it.

NEW SECTION. Sec. 502. This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. Sec. 503. Except as otherwise provided in this act, on the effective date of this section:

- (1) This act applies to a power of attorney created before, on, or after the effective date of this section;
(2) This act applies to a judicial proceeding concerning a power of attorney commenced on or after the effective date of this section;
(3) This act applies to a judicial proceeding concerning a power of attorney commenced before the effective date of this section unless the court finds that application of a provision of this act would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and
(4) An act done before the effective date of this section is not affected by this act.

NEW SECTION. Sec. 504. The following acts or parts of acts are each repealed:

- (1)RCW 11.94.010 (Designation—Authority—Effect of acts done—Appointment of guardian, effect—Accounting—Reliance on instrument) and 2007 c 156 s 31, 2005 c 97 s 12, 2003 c 283 s 27, 1995 c 297 s 9, 1989 c 211 s 1, & 1985 c 30 s 25;
(2)RCW 11.94.020 (Effect of death, disability, or incompetence of principal—Acts without knowledge) and 1985 c 30 s 26;
(3)RCW 11.94.030 (Banking transactions) and 1985 c 30 s 27;
(4)RCW 11.94.040 (Liability for reliance on power of attorney document) and 2001 c 203 s 2 & 1985 c 30 s 28;
(5)RCW 11.94.043 (Durable power of attorney—Revocation or termination) and 1989 c 211 s 2;
(6)RCW 11.94.046 (Durable power of attorney—Validity) and 1989 c 211 s 3;
(7)RCW 11.94.050 (Attorney or agent granted principal's powers—Powers to be specifically provided for—Transfer of resources by principal's attorney or agent) and 2014 c 58 s 23, 2011 c 327 s 4, 2001 c 203 s 12, 1989 c 87 s 1, & 1985 c 30 s 29;
(8)RCW 11.94.060 (Conveyance or encumbrance of homestead) and 1985 c 30 s 30;
(9)RCW 11.94.070 (Limitations on powers to benefit attorneys-in-fact) and 1994 c 221 s 67;
(10)RCW 11.94.080 (Termination of marriage or state registered domestic partnership) and 2007 c 156 s 14 & 2001 c 203 s 1;
(11)RCW 11.94.090 (Court petition) and 2008 c 6 s 808 & 2001 c 203 s 3;
(12)RCW 11.94.100 (Persons allowed to file court petition) and 2008 c 6 s 809 & 2001 c 203 s 4;
(13)RCW 11.94.110 (Ruling on court petition) and 2001 c 203 s 5;
(14)RCW 11.94.120 (Award of costs on court petition) and 2001 c 203 s 6;
(15)RCW 11.94.130 (Applicability of dispute resolution provisions to court petition) and 2001 c 203 s 7;
(16)RCW 11.94.140 (Notice of hearing on court petition) and 2008 c 6 s 810 & 2001 c 203 s 8;
(17)RCW 11.94.150 (Mental health treatment decisions— Compensation of agent prohibited—Reimbursement of expenses

allowed) and 2003 c 283 s 28;

(18)RCW 11.94.900 (Application of 1984 c 149 §§ 26-31 as of January 1, 1985) and 1985 c 30 s 140; and

(19)RCW 11.94.901 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 37.

NEW SECTION. Sec. 505. Sections 101 through 301 and 501 through 503 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. Sec. 506. This act takes effect January 1, 2017."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5635.

Senators Padden and Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5635.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5635 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5635, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5635, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senator Baumgartner

ENGROSSED SUBSTITUTE SENATE BILL NO. 5635, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 2, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5728 with the following amendment(s): 5728-S AMH HCW H4542.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the scientific community's understanding of the human immunodeficiency virus has changed significantly since the virus

was first identified. With that change has come increased awareness of the value of incorporating HIV testing into routine health screenings. The legislature finds that the United States preventive services task force recommends that clinicians screen for HIV infection in adolescents and adults age fifteen to sixty-five years and for all pregnant women. The legislature also finds that since 2006, the United States centers for disease control has recommended one-time screening of adolescent and adult patients to identify persons who are already HIV-positive, making HIV screening a regular part of the medical care provided by a primary care provider and on the same voluntary basis as other diagnostic and screening tests. In that same recommendation, the centers for disease control formally adopted its current recommendations for an opt-out model of HIV screening for all individuals ages thirteen to sixty-four and for all pregnant women. The legislature finds further that it is appropriate to update the state's HIV screening policy by adopting these recommendations.

NEW SECTION. Sec. 2. A new section is added to chapter 70.24 RCW to read as follows:

(1) Clinicians shall screen for HIV infection consistent with the United States preventive services task force recommendations for all patients age fifteen through sixty-five years and for all pregnant women. Screening is voluntary and may be undertaken only after the patient or the patient's authorized representative has been told that HIV screening is planned and that HIV screening will be performed unless the patient declines.

(2) If a health care provider notifies a patient that an HIV screening will be performed unless the patient declines, and the patient or patient's authorized representative declines the HIV screening, the health care provider may not use the fact that the person declined an HIV screening as a basis for denying services or treatment, other than an HIV screening, to the person."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5728.

Senators Becker and Darneille spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5728.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5728 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5728, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5728, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

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Voting nay: Senators Angel and Dansel  
Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 5728, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6120 with the following amendment(s): 6120-S AMH TR H4522.20.

On page 3, line 22, after "hour" insert "and is not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States"

On page 5, line 22, after "hour" insert "and is not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States"

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6120.

Senators King and Mullet spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6120.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6120 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6120, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6120, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Liias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senators Hargrove and Ranker  
Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6120, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Ranker: "Thank you, Mr. President. I want to explain my no vote on that last bill. So this for me is an example, a perfectly good example, of how the other chamber can take a perfectly good bill and dramatically over think it. The change that the House did, said that these things could not go outside of Washington State's territorial waters. So under federal and state law, our territorial waters go to fifty miles off shore. So basically what they're saying is these small, sixteen-foot vessels of which they've said can only go ten miles, cannot go fifty miles off shore. I don't know about you, but I don't know anybody that wants to take a sixteen-foot boat fifty miles off shore. I think the change from the House was unnecessary and unwise."

MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6179 with the following amendment(s): 6179-S AMH ENGR H4580.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.42.130 and 2014 c 76 s 9 are each amended to read as follows:

((1)) The department shall seek input from agricultural organizations, federal agencies, tribal governments, local governments, watershed groups, conservation groups, and developers on water banking, including water banking procedures and identification of areas in Washington ((state)) where water banking could assist in providing water supplies for instream and out-of-stream uses.

((2) The department shall maintain information on its web site regarding water banking, including information on water banks and related programs in various areas of the state.))

NEW SECTION. Sec. 2. A new section is added to chapter 90.42 RCW to read as follows:

(1)(a) The department must maintain information on its web site regarding water banking, including information on water banks and related programs in various areas of the state.

(b) The information maintained on the department's web site under this subsection must include a schedule or table for each water bank that shows:

- (i) The amount charged for mitigation, including any fees;
- (ii) If applicable, the priority date of the water rights made available for mitigation;
- (iii) The amount of water made available for mitigation;
- (iv) If applicable, any geographic areas in the state where the department may issue permits or other approvals to use the water rights associated with the water bank as mitigation;
- (v) The processes utilized by the water bank to obtain approval from the department, or any other applicable governmental agency, to use the water rights as mitigation for new water uses; and
- (vi) The nature of the ownership interest of the water right available to be conveyed to the landowner and whether the ownership interest will be recorded on the title.

(2) The department must update the schedule or table required under this section on a quarterly basis, using information provided to the department by the operator of each water bank. Any person operating a water bank in Washington must provide the information required under this section to the department upon request."

BERNARD DEAN, Deputy Chief Clerk

## MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6179.

Senator Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6179.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6179 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6179, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6179, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senator Padden

Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6179, as amended by the House, 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.

## MESSAGE FROM THE HOUSE

March 3, 2016

## MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6445 with the following amendment(s): 6445-S AMH HCW H4593.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.020 and 2015 c 269 s 14 and 2015 c 250 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician, physician assistant, 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 behavioral health organization 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, physician assistant working with a supervising 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(5);

(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. The department may certify single beds as temporary evaluation and treatment beds under RCW 71.05.745. 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;

(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,

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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) "In need of assisted outpatient mental health treatment" means that a person, as a result of a mental disorder: (a) Has been committed by a court to detention for involuntary mental health treatment at least twice during the preceding thirty-six months, or, if the person is currently committed for involuntary mental health treatment, the person has been committed to detention for involuntary mental health treatment at least once during the thirty-six months preceding the date of initial detention of the current commitment cycle; (b) is unlikely to voluntarily participate in outpatient treatment without an order for less restrictive alternative treatment, in view of the person's treatment history or current behavior; (c) is unlikely to survive safely in the community without supervision; (d) is likely to benefit from less restrictive alternative treatment; and (e) requires less restrictive alternative treatment to prevent a relapse, decompensation, or deterioration that is likely to result in the person presenting a likelihood of serious harm or the person becoming gravely disabled within a reasonably short period of time. For purposes of (a) of this subsection, time spent in a mental health facility or in confinement as a result of a criminal conviction is excluded from the thirty-six month calculation;

(22) "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;

(23) "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;

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

(25) "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;

(26) "Less restrictive alternative treatment" means a program of individualized treatment in a less restrictive setting than inpatient treatment that includes the services described in RCW 71.05.585;

(27) "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;

(28) "Medical clearance" means a physician or other health care provider has determined that a person is medically stable and ready for referral to the designated mental health professional;

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

(30) "Mental health professional" means a psychiatrist, psychologist, physician assistant working with a supervising psychiatrist, 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;

(31) "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;

(32) "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;

(33) "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;

(34) "Professional person" means a mental health professional and shall also mean a physician, physician assistant, 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;

(35) "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;

(36) "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;

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

(38) "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;

(39) "Registration records" include all the records of the department, behavioral health organizations, 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;

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

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

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

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

(44) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010;

(45) "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;

(46) "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 behavioral health organizations 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, behavioral health organizations, or a treatment facility if the notes or records are not available to others;

(47) "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;

(48) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property;

(49) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

Sec. 2. RCW 71.05.210 and 2015 c 269 s 7 and 2015 c 250 s 20 are each reenacted and amended to read as follows:

(1) Each person involuntarily detained and accepted or admitted at an evaluation and treatment facility (((1))):

(a) Shall, within twenty-four hours of his or her admission or acceptance at the facility, not counting time periods prior to medical clearance, be examined and evaluated by (((a)) a licensed physician who may be assisted by a physician assistant according

to chapter 18.71A RCW and a mental health professional, (b) an advanced registered nurse practitioner according to chapter 18.79 RCW and a mental health professional, or (c) a licensed physician and a psychiatric advanced registered nurse practitioner));

(i) One physician and a mental health professional;

(ii) One physician assistant and a mental health professional; or

(iii) One advanced registered nurse practitioner and a mental health professional; and

(((2))) (b) Shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a trial or hearing pursuant to RCW 71.05.215, 71.05.240, 71.05.310, 71.05.320, 71.05.590, or 71.05.217, the individual may refuse psychiatric medications, but may not refuse: (((a))) (i) Any other medication previously prescribed by a person licensed under Title 18 RCW; or (((b))) (ii) emergency lifesaving treatment, and the individual shall be informed at an appropriate time of his or her right of such refusal. The person shall be detained up to seventy-two hours, if, in the opinion of the professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

(2) If, after examination and evaluation, the mental health professional and licensed physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

(3) An evaluation and treatment center admitting or accepting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for evaluation or admission for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

Sec. 3. RCW 71.05.215 and 2008 c 156 s 2 are each amended to read as follows:

(1) A person found to be gravely disabled or presents a likelihood of serious harm as a result of a mental disorder has a right to refuse antipsychotic medication unless it is determined that the failure to medicate may result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of that person.

(2) The department shall adopt rules to carry out the purposes of this chapter. These rules shall include:

(a) An attempt to obtain the informed consent of the person prior to administration of antipsychotic medication.

(b) For short-term treatment up to thirty days, the right to refuse antipsychotic medications unless there is an additional concurring medical opinion approving medication by a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, or physician or physician assistant in consultation with a mental health professional with prescriptive authority.

(c) For continued treatment beyond thirty days through the hearing on any petition filed under RCW 71.05.217, the right to

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periodic review of the decision to medicate by the medical director or designee.

(d) Administration of antipsychotic medication in an emergency and review of this decision within twenty-four hours. An emergency exists if the person presents an imminent likelihood of serious harm, and medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and in the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner, the person's condition constitutes an emergency requiring the treatment be instituted prior to obtaining a second medical opinion.

(e) Documentation in the medical record of the attempt by the physician, physician assistant, or psychiatric advanced registered nurse practitioner to obtain informed consent and the reasons why antipsychotic medication is being administered over the person's objection or lack of consent.

Sec. 4. RCW 71.05.217 and 2008 c 156 s 3 are each amended to read as follows:

Insofar as danger to the individual or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(1) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(2) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(3) To have access to individual storage space for his or her private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.320((3)) (4) or the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court of competent jurisdiction pursuant to the following standards and procedures:

(a) The administration of antipsychotic medication or electroconvulsant therapy shall not be ordered unless the petitioning party proves by clear, cogent, and convincing evidence that there exists a compelling state interest that justifies overriding the patient's lack of consent to the administration of antipsychotic medications or electroconvulsant therapy, that the proposed treatment is necessary and effective, and that medically acceptable alternative forms of treatment are not available, have not been successful, or are not likely to be effective.

(b) The court shall make specific findings of fact concerning: (i) The existence of one or more compelling state interests; (ii) the necessity and effectiveness of the treatment; and (iii) the person's desires regarding the proposed treatment. If the patient is unable to make a rational and informed decision about consenting to or refusing the proposed treatment, the court shall make a substituted judgment for the patient as if he or she were competent to make such a determination.

(c) The person shall be present at any hearing on a request to administer antipsychotic medication or electroconvulsant therapy filed pursuant to this subsection. The person has the right: (i) To

be represented by an attorney; (ii) to present evidence; (iii) to cross-examine witnesses; (iv) to have the rules of evidence enforced; (v) to remain silent; (vi) to view and copy all petitions and reports in the court file; and (vii) to be given reasonable notice and an opportunity to prepare for the hearing. The court may appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician to examine and testify on behalf of such person. The court shall appoint a psychiatrist, physician assistant working with a supervising psychiatrist, psychiatric advanced registered nurse practitioner, psychologist within their scope of practice, physician assistant, or physician designated by such person or the person's counsel to testify on behalf of the person in cases where an order for electroconvulsant therapy is sought.

(d) An order for the administration of antipsychotic medications entered following a hearing conducted pursuant to this section shall be effective for the period of the current involuntary treatment order, and any interim period during which the person is awaiting trial or hearing on a new petition for involuntary treatment or involuntary medication.

(e) Any person detained pursuant to RCW 71.05.320((3)) (4), who subsequently refuses antipsychotic medication, shall be entitled to the procedures set forth in this subsection.

(f) Antipsychotic medication may be administered to a nonconsenting person detained or committed pursuant to this chapter without a court order pursuant to RCW 71.05.215(2) or under the following circumstances:

(i) A person presents an imminent likelihood of serious harm;

(ii) Medically acceptable alternatives to administration of antipsychotic medications are not available, have not been successful, or are not likely to be effective; and

(iii) In the opinion of the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for treatment of the person, or his or her designee, the person's condition constitutes an emergency requiring the treatment be instituted before a judicial hearing as authorized pursuant to this section can be held.

If antipsychotic medications are administered over a person's lack of consent pursuant to this subsection, a petition for an order authorizing the administration of antipsychotic medications shall be filed on the next judicial day. The hearing shall be held within two judicial days. If deemed necessary by the physician, physician assistant, or psychiatric advanced registered nurse practitioner with responsibility for the treatment of the person, administration of antipsychotic medications may continue until the hearing is held;

(8) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue;

(9) Not to have psychosurgery performed on him or her under any circumstances.

Sec. 5. RCW 71.05.230 and 2015 c 250 s 6 are each amended to read as follows:

A person detained or committed for seventy-two hour evaluation and treatment or for an outpatient evaluation for the purpose of filing a petition for a less restrictive alternative treatment order may be committed for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and results in a

likelihood of serious harm, results in the person being gravely disabled, or results in the person being in need of assisted outpatient mental health treatment, and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The agency or facility providing intensive treatment or which proposes to supervise the less restrictive alternative is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition with the court for a fourteen day involuntary detention or a ninety day less restrictive alternative. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) ((Two psychiatric advanced registered nurse practitioners;)) One physician assistant and a mental health professional; or

(d) One psychiatric advanced registered nurse practitioner and a mental health professional(; or

(e) A physician and a psychiatric advanced registered nurse practitioner)). The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, is gravely disabled, or is in need of assisted outpatient mental health treatment, and shall set forth a plan for the less restrictive alternative treatment proposed by the facility in accordance with RCW 71.05.585; and

(5) A copy of the petition has been served on the detained or committed person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide less restrictive alternative treatment is other than the facility providing involuntary treatment, the outpatient facility so designated to provide less restrictive alternative treatment has agreed to assume such responsibility.

Sec. 6. RCW 71.05.290 and 2015 c 250 s 10 are each amended to read as follows:

(1) At any time during a person's fourteen day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated mental health professional may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(a) Two ((examining)) physicians;

(b) One ((examining)) physician and ((examining)) a mental health professional;

(c) ((Two psychiatric advanced registered nurse practitioners;)) One physician assistant and a mental health professional; or

(d) One psychiatric advanced registered nurse practitioner and a mental health professional(; or

(e) An examining physician and an examining psychiatric advanced registered nurse practitioner)). The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth a proposed plan for less restrictive alternative treatment in accordance with RCW 71.05.585.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(4), then the professional person in charge of the treatment facility or his or her professional designee or the designated mental health professional may directly file a petition for one hundred eighty day treatment under RCW 71.05.280(3). No petition for initial detention or fourteen day detention is required before such a petition may be filed.

Sec. 7. RCW 71.05.300 and 2014 c 225 s 84 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the designated mental health professional. The designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086(4), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the

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petition as provided in RCW 71.05.310.

Sec. 8. RCW 71.05.360 and 2009 c 217 s 5 are each amended to read as follows:

(1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, under this chapter or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(c) Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.153, no

later than twelve hours after such person is admitted to the evaluation and treatment facility the personnel of the evaluation and treatment facility or the designated mental health professional shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

(a) To present evidence on his or her behalf;

(b) To cross-examine witnesses who testify against him or her;

(c) To be proceeded against by the rules of evidence;

(d) To remain silent;

(e) To view and copy all petitions and reports in the court file.

(9) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) To discuss treatment plans and decisions with professional persons;

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.217 or

pursuant to an administrative hearing under RCW 71.05.215;

(i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court under RCW 71.05.217;

(j) Not to have psychosurgery performed on him or her under any circumstances;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(11) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney shall have the right to designate and have the court appoint a reasonably available independent physician, physician assistant, psychiatric advanced registered nurse practitioner, or licensed mental health professional to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert examination, otherwise such expert examination shall be at public expense.

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

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

Sec. 9. RCW 71.05.660 and 2013 c 200 s 21 are each amended to read as follows:

Nothing in this chapter or chapter 70.02, 70.96A, 71.34, or 70.96B RCW shall be construed to interfere with communications between physicians, physician assistants, psychiatric advanced registered nurse practitioners, or psychologists and patients and attorneys and clients.

Sec. 10. RCW 71.06.040 and 2009 c 217 s 10 are each amended to read as follows:

At a preliminary hearing upon the charge of sexual psychopathy, the court may require the testimony of two duly licensed physicians, physician assistants, or psychiatric advanced registered nurse practitioners who have examined the defendant. If the court finds that there are reasonable grounds to believe the defendant is a sexual psychopath, the court shall order said defendant confined at the nearest state hospital for observation as to the existence of sexual psychopathy. Such observation shall be for a period of not to exceed ninety days. The defendant shall be detained in the county jail or other county facilities pending execution of such observation order by the department.

Sec. 11. RCW 71.12.540 and 2009 c 217 s 11 are each amended to read as follows:

The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment,

name of physician, physician assistant, or psychiatric advanced registered nurse practitioner, diagnosis, and date of discharge.

Sec. 12. RCW 71.24.025 and 2014 c 225 s 10 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(3) "Behavioral health organization" means any county authority or group of county authorities or other entity recognized by the secretary in contract in a defined region.

(4) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and chemical dependency treatment services as described in chapter 70.96A RCW.

(5) "Child" means a person under the age of eighteen years.

(6) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(7) "Clubhouse" means a community-based program that provides rehabilitation services and is certified by the department of social and health services.

(8) "Community mental health program" means all mental health services, activities, or programs using available resources.

(9) "Community mental health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(10) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and

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treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health organizations.

(11) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(12) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

(13) "Department" means the department of social and health services.

(14) "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.

(15) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (16) of this section.

(16) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(17) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 or 70.96A RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, or tribal attestation that meets state minimum standards, or persons licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(18) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(19) "Mental health services" means all services provided by behavioral health organizations and other services provided by the state for persons who are mentally ill.

(20) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (6), (28), and (29) of this section.

(21) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

(22) "Registration records" include all the records of the department, behavioral health organizations, 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.

(23) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (16) of this section but does not meet the full criteria for evidence-based.

(24) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(25) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(26) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined solely by a behavioral health organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated mental health professionals, evaluation and treatment facilities, and others as determined by the behavioral health organization.

(27) "Secretary" means the secretary of social and health services.

(28) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(29) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health organization to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(30) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

(31) "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 behavioral health organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(32) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any behavioral health organization that would present a conflict of interest.

Sec. 13. RCW 71.32.110 and 2003 c 283 s 11 are each amended to read as follows:

(1) For the purposes of this chapter, a principal, agent, professional person, or health care provider may seek a determination whether the principal is incapacitated or has regained capacity.

(2)(a) For the purposes of this chapter, no adult may be declared an incapacitated person except by:

(i) A court, if the request is made by the principal or the principal's agent;

(ii) One mental health professional and one health care provider; or

(iii) Two health care providers.

(b) One of the persons making the determination under (a)(ii) or (iii) of this subsection must be a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, or a psychiatric advanced registered nurse practitioner.

(3) When a professional person or health care provider requests a capacity determination, he or she shall promptly inform the principal that:

(a) A request for capacity determination has been made; and

(b) The principal may request that the determination be made by a court.

(4) At least one mental health professional or health care provider must personally examine the principal prior to making a capacity determination.

(5)(a) When a court makes a determination whether a principal has capacity, the court shall, at a minimum, be informed by the testimony of one mental health professional familiar with the principal and shall, except for good cause, give the principal an opportunity to appear in court prior to the court making its determination.

(b) To the extent that local court rules permit, any party or witness may testify telephonically.

(6) When a court has made a determination regarding a principal's capacity and there is a subsequent change in the principal's condition, subsequent determinations whether the principal is incapacitated may be made in accordance with any of the provisions of subsection (2) of this section.

Sec. 14. RCW 71.32.140 and 2009 c 217 s 12 are each amended to read as follows:

(1) A principal who:

(a) Chose not to be able to revoke his or her directive during any period of incapacity;

(b) Consented to voluntary admission to inpatient mental health treatment, or authorized an agent to consent on the principal's behalf; and

(c) At the time of admission to inpatient treatment, refuses to be admitted,

may only be admitted into inpatient mental health treatment under subsection (2) of this section.

(2) A principal may only be admitted to inpatient mental health treatment under his or her directive if, prior to admission, a member of the treating facility's professional staff who is a physician, physician assistant, or psychiatric advanced registered nurse practitioner:

(a) Evaluates the principal's mental condition, including a review of reasonably available psychiatric and psychological history, diagnosis, and treatment needs, and determines, in conjunction with another health care provider or mental health professional, that the principal is incapacitated;

(b) Obtains the informed consent of the agent, if any, designated in the directive;

(c) Makes a written determination that the principal needs an inpatient evaluation or is in need of inpatient treatment and that the evaluation or treatment cannot be accomplished in a less restrictive setting; and

(d) Documents in the principal's medical record a summary of the physician's, physician assistant's, or psychiatric advanced registered nurse practitioner's findings and recommendations for treatment or evaluation.

(3) In the event the admitting physician is not a psychiatrist, the admitting physician assistant is not supervised by a psychiatrist, or the advanced registered nurse practitioner is not a psychiatric advanced registered nurse practitioner, the principal shall receive a complete psychological assessment by a mental health professional within twenty-four hours of admission to determine the continued need for inpatient evaluation or treatment.

(4)(a) If it is determined that the principal has capacity, then the principal may only be admitted to, or remain in, inpatient treatment if he or she consents at the time or is detained under the involuntary treatment provisions of chapter 70.96A, 71.05, or 71.34 RCW.

(b) If a principal who is determined by two health care providers or one mental health professional and one health care provider to be incapacitated continues to refuse inpatient treatment, the principal may immediately seek injunctive relief for release from the facility.

(5) If, at the end of the period of time that the principal or the principal's agent, if any, has consented to voluntary inpatient treatment, but no more than fourteen days after admission, the principal has not regained capacity or has regained capacity but refuses to consent to remain for additional treatment, the principal must be released during reasonable daylight hours, unless detained under chapter 70.96A, 71.05, or 71.34 RCW.

(6)(a) Except as provided in (b) of this subsection, any principal who is voluntarily admitted to inpatient mental health treatment under this chapter shall have all the rights provided to individuals who are voluntarily admitted to inpatient treatment under chapter 71.05, 71.34, or 72.23 RCW.

(b) Notwithstanding RCW 71.05.050 regarding consent to inpatient treatment for a specified length of time, the choices an incapacitated principal expressed in his or her directive shall control, provided, however, that a principal who takes action demonstrating a desire to be discharged, in addition to making statements requesting to be discharged, shall be discharged, and no principal shall be restrained in any way in order to prevent his or her discharge. Nothing in this subsection shall be construed to prevent detention and evaluation for civil commitment under chapter 71.05 RCW.

(7) Consent to inpatient admission in a directive is effective only while the professional person, health care provider, and health care facility are in substantial compliance with the material provisions of the directive related to inpatient treatment.

Sec. 15. RCW 71.32.250 and 2009 c 217 s 13 are each amended to read as follows:

(1) If a principal who is a resident of a long-term care facility is admitted to inpatient mental health treatment pursuant to his or her directive, the principal shall be allowed to be readmitted to the same long-term care facility as if his or her inpatient admission had been for a physical condition on the same basis that the principal would be readmitted under state or federal statute or rule when:

(a) The treating facility's professional staff determine that inpatient mental health treatment is no longer medically necessary for the resident. The determination shall be made in writing by a psychiatrist, physician assistant working with a supervising psychiatrist, or a psychiatric advanced registered nurse practitioner, or ((a mental health professional and either (i) a physician or (ii) psychiatric advanced registered nurse practitioner)) (i) one physician and a mental health professional; (ii) one physician assistant and a mental health professional; or (iii) one psychiatric advanced registered nurse practitioner and a mental health professional; or

(b) The person's consent to admission in his or her directive has expired.

(2)(a) If the long-term care facility does not have a bed available at the time of discharge, the treating facility may discharge the resident, in consultation with the resident and agent if any, and in accordance with a medically appropriate discharge plan, to another long-term care facility.

(b) This section shall apply to inpatient mental health treatment admission of long-term care facility residents, regardless of

whether the admission is directly from a facility, hospital emergency room, or other location.

(c) This section does not restrict the right of the resident to an earlier release from the inpatient treatment facility. This section does not restrict the right of a long-term care facility to initiate transfer or discharge of a resident who is readmitted pursuant to this section, provided that the facility has complied with the laws governing the transfer or discharge of a resident.

(3) The joint legislative audit and review committee shall conduct an evaluation of the operation and impact of this section. The committee shall report its findings to the appropriate committees of the legislature by December 1, 2004.

Sec. 16. RCW 71.32.260 and 2009 c 217 s 14 are each amended to read as follows:

The directive shall be in substantially the following form:

Mental Health Advance Directive  
NOTICE TO PERSONS  
CREATING A MENTAL HEALTH ADVANCE  
DIRECTIVE

This is an important legal document. It creates an advance directive for mental health treatment. Before signing this document you should know these important facts:

(1) This document is called an advance directive and allows you to make decisions in advance about your mental health treatment, including medications, short-term admission to inpatient treatment and electroconvulsive therapy.

**YOU DO NOT HAVE TO FILL OUT OR SIGN THIS FORM.**

**IF YOU DO NOT SIGN THIS FORM, IT WILL NOT TAKE EFFECT.**

If you choose to complete and sign this document, you may still decide to leave some items blank.

(2) You have the right to appoint a person as your agent to make treatment decisions for you. You must notify your agent that you have appointed him or her as an agent. The person you appoint has a duty to act consistently with your wishes made known by you. If your agent does not know what your wishes are, he or she has a duty to act in your best interest. Your agent has the right to withdraw from the appointment at any time.

(3) The instructions you include with this advance directive and the authority you give your agent to act will only become effective under the conditions you select in this document. You may choose to limit this directive and your agent's authority to times when you are incapacitated or to times when you are exhibiting symptoms or behavior that you specify. You may also make this directive effective immediately. No matter when you choose to make this directive effective, your treatment providers must still seek your informed consent at all times that you have capacity to give informed consent.

(4) You have the right to revoke this document in writing at any time you have capacity.

**YOU MAY NOT REVOKE THIS DIRECTIVE WHEN YOU HAVE BEEN FOUND TO BE INCAPACITATED UNLESS YOU HAVE SPECIFICALLY STATED IN THIS DIRECTIVE THAT YOU WANT IT TO BE REVOCABLE WHEN YOU ARE INCAPACITATED.**

(5) This directive will stay in effect until you revoke it unless you specify an expiration date. If you specify an expiration date and you are incapacitated at the time it expires, it will remain in effect until you have capacity to make treatment decisions again unless you chose to be able to revoke it while you are incapacitated and you revoke the directive.

(6) You cannot use your advance directive to consent to civil commitment. The procedures that apply to your advance

directive are different than those provided for in the Involuntary Treatment Act. Involuntary treatment is a different process.

(7) If there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

(8) You should be aware that there are some circumstances where your provider may not have to follow your directive.

(9) You should discuss any treatment decisions in your directive with your provider.

(10) You may ask the court to rule on the validity of your directive.

PART I.

STATEMENT OF INTENT TO CREATE A MENTAL HEALTH ADVANCE DIRECTIVE

I, . . . . . being a person with capacity, willfully and voluntarily execute this mental health advance directive so that my choices regarding my mental health care will be carried out in circumstances when I am unable to express my instructions and preferences regarding my mental health care. If a guardian is appointed by a court to make mental health decisions for me, I intend this document to take precedence over all other means of ascertaining my intent.

The fact that I may have left blanks in this directive does not affect its validity in any way. I intend that all completed sections be followed. If I have not expressed a choice, my agent should make the decision that he or she determines is in my best interest. I intend this directive to take precedence over any other directives I have previously executed, to the extent that they are inconsistent with this document, or unless I expressly state otherwise in either document.

I understand that I may revoke this directive in whole or in part if I am a person with capacity. I understand that I cannot revoke this directive if a court, two health care providers, or one mental health professional and one health care provider find that I am an incapacitated person, unless, when I executed this directive, I chose to be able to revoke this directive while incapacitated.

I understand that, except as otherwise provided in law, revocation must be in writing. I understand that nothing in this directive, or in my refusal of treatment to which I consent in this directive, authorizes any health care provider, professional person, health care facility, or agent appointed in this directive to use or threaten to use abuse, neglect, financial exploitation, or abandonment to carry out my directive.

I understand that there are some circumstances where my provider may not have to follow my directive.

PART II.

WHEN THIS DIRECTIVE IS EFFECTIVE YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I intend that this directive become effective (YOU MUST CHOOSE ONLY ONE):

. . . . . Immediately upon my signing of this directive.

. . . . . If I become incapacitated.

. . . . . When the following circumstances, symptoms, or behaviors occur:

PART III.

DURATION OF THIS DIRECTIVE YOU MUST COMPLETE THIS PART FOR YOUR DIRECTIVE TO BE VALID.

I want this directive to (YOU MUST CHOOSE ONLY ONE):

. . . . . Remain valid and in effect for an indefinite period of time.

. . . . . Automatically expire . . . . . years from the date it was created.

PART IV.

WHEN I MAY REVOKE THIS DIRECTIVE YOU MUST COMPLETE THIS PART FOR THIS DIRECTIVE TO BE VALID.

I intend that I be able to revoke this directive (YOU MUST CHOOSE ONLY ONE):

. . . . . Only when I have capacity.

I understand that choosing this option means I may only revoke this directive if I have capacity. I further understand that if I choose this option and become incapacitated while this directive is in effect, I may receive treatment that I specify in this directive, even if I object at the time.

. . . . . Even if I am incapacitated.

I understand that choosing this option means that I may revoke this directive even if I am incapacitated. I further understand that if I choose this option and revoke this directive while I am incapacitated I may not receive treatment that I specify in this directive, even if I want the treatment.

PART V.

PREFERENCES AND INSTRUCTIONS ABOUT TREATMENT, FACILITIES, AND PHYSICIANS OR PSYCHIATRIC ADVANCED REGISTERED NURSE PRACTITIONERS

A. Preferences and Instructions About Physician(s), Physician Assistant(s), or Psychiatric Advanced Registered Nurse Practitioner(s) to be Involved in My Treatment

I would like the physician(s), physician assistant(s), or psychiatric advanced registered nurse practitioner(s) named below to be involved in my treatment decisions:

Dr., PA-C, or PARNP . . . . . Contact information:

Dr., PA-C, or PARNP . . . . . Contact information:

I do not wish to be treated by Dr. or PARNP

B. Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name . . . . . Profession . . . . . Contact information

Name . . . . . Profession . . . . . Contact information

C. Preferences and Instructions About Medications for Psychiatric Treatment (initial and complete all that apply)

. . . . . I consent, and authorize my agent (if appointed) to consent, to the following medications:

. . . . . I do not consent, and I do not authorize my agent (if appointed) to consent, to the administration of the following medications:

. . . . . I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include

and these side effects can be eliminated by dosage adjustment or other means

. . . . . I am willing to try any other medication the hospital doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

. . . . . I am willing to try any other medications my outpatient doctor, physician assistant, or psychiatric advanced registered nurse practitioner recommends

. . . . . I do not want to try any other medications.

Medication Allergies

Other Medication Preferences or Instructions

D. Preferences and Instructions About Hospitalization and

Alternatives

(initial all that apply and, if desired, rank "1" for first choice, "2" for second choice, and so on)

..... In the event my psychiatric condition is serious enough to require 24-hour care and I have no physical conditions that require immediate access to emergency medical care, I prefer to receive this care in programs/facilities designed as alternatives to psychiatric hospitalizations.

..... I would also like the interventions below to be tried before hospitalization is considered:

..... Calling someone or having someone call me when needed.

Name: Telephone:

..... Staying overnight with someone

Name: Telephone:

..... Having a mental health service provider come to see me

..... Going to a crisis triage center or emergency room

..... Staying overnight at a crisis respite (temporary) bed

..... Seeing a service provider for help with psychiatric medications

..... Other, specify:

Authority to Consent to Inpatient Treatment

I consent, and authorize my agent (if appointed) to consent, to voluntary admission to inpatient mental health treatment for ..... days (not to exceed 14 days)

(Sign one):

..... If deemed appropriate by my agent (if appointed) and treating physician, physician assistant, or psychiatric advanced registered nurse practitioner

(Signature)

Or

..... Under the following circumstances (specify symptoms, behaviors, or circumstances that indicate the need for hospitalization)

(Signature)

..... I do not consent, or authorize my agent (if appointed) to consent, to inpatient treatment

(Signature)

Hospital Preferences and Instructions

If hospitalization is required, I prefer the following hospitals:

I do not consent to be admitted to the following hospitals:

E. Preferences and Instructions About Preemergency

I would like the interventions below to be tried before use of seclusion or restraint is considered

(initial all that apply):

..... "Talk me down" one-on-one

..... More medication

..... Time out/privacy

..... Show of authority/force

..... Shift my attention to something else

..... Set firm limits on my behavior

..... Help me to discuss/vent feelings

..... Decrease stimulation

..... Offer to have neutral person settle dispute

..... Other, specify

F. Preferences and Instructions About Seclusion, Restraint, and Emergency Medications

If it is determined that I am engaging in behavior that

requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on):

..... Seclusion

..... Seclusion and physical restraint (combined)

..... Medication by injection

..... Medication in pill or liquid form

In the event that my attending physician, physician assistant, or psychiatric advanced registered nurse practitioner decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in Part III C of this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for nonemergency treatment.

G. Preferences and Instructions About Electroconvulsive Therapy

(ECT or Shock Therapy)

My wishes regarding electroconvulsive therapy are (sign one):

..... I do not consent, nor authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy

(Signature)

..... I consent, and authorize my agent (if appointed) to consent, to the administration of electroconvulsive therapy, but only under the following conditions:

(Signature)

H. Preferences and Instructions About Who is Permitted to Visit

If I have been admitted to a mental health treatment facility, the following people are not permitted to visit me there:

Name:

Name:

Name:

I understand that persons not listed above may be permitted to visit me.

I. Additional Instructions About My Mental Health Care

Other instructions about my mental health care:

In case of emergency, please contact:

Name: Address:

Work telephone: Home telephone:

Physician, Physician Assistant, or Psychiatric Advanced Registered Nurse Practitioner: Address:

Telephone:

The following may help me to avoid a hospitalization:

I generally react to being hospitalized as follows:

Staff of the hospital or crisis unit can help me by doing the following:

J. Refusal of Treatment  
I do not consent to any mental health treatment.

(Signature)

PART VI.

DURABLE POWER OF ATTORNEY (APPOINTMENT OF MY AGENT)

(Fill out this part only if you wish to appoint an agent or nominate a guardian.)

I authorize an agent to make mental health treatment decisions on my behalf. The authority granted to my agent includes the right to consent, refuse consent, or withdraw consent to any mental health care, treatment, service, or procedure, consistent with any instructions and/or limitations I have set forth in this directive. I intend that those decisions should be made in accordance with my expressed wishes as set forth in this document. If I have not expressed a choice in this document and my agent does not otherwise know my wishes, I authorize my agent to make the decision that my agent determines is in my best interest. This agency shall not be affected by my incapacity. Unless I state otherwise in this durable power of attorney, I may revoke it unless prohibited by other state law.

A. Designation of an Agent

I appoint the following person as my agent to make mental health treatment decisions for me as authorized in this document and request that this person be notified immediately when this directive becomes effective:

Name: Address:  
Work telephone: Home telephone:  
Relationship:

B. Designation of Alternate Agent

If the person named above is unavailable, unable, or refuses to serve as my agent, or I revoke that person's authority to serve as my agent, I hereby appoint the following person as my alternate agent and request that this person be notified immediately when this directive becomes effective or when my original agent is no longer my agent:

Name: Address:  
Work telephone: Home telephone:  
Relationship:

C. When My Spouse is My Agent (initial if desired)

..... If my spouse is my agent, that person shall remain my agent even if we become legally separated or our marriage is dissolved, unless there is a court order to the contrary or I have remarried.

D. Limitations on My Agent's Authority

I do not grant my agent the authority to consent on my behalf to the following:

E. Limitations on My Ability to Revoke this Durable Power of Attorney

I choose to limit my ability to revoke this durable power of attorney as follows:

F. Preference as to Court-Appointed Guardian

In the event a court appoints a guardian who will make decisions regarding my mental health treatment, I nominate the following person as my guardian:

Name: Address:  
Work telephone: Home telephone:  
Relationship:

The appointment of a guardian of my estate or my person or any other decision maker shall not give the guardian or decision maker the power to revoke, suspend, or terminate this directive or the powers of my agent, except as authorized by law.

(Signature required if nomination is made)

PART VII.  
OTHER DOCUMENTS

(Initial all that apply)

I have executed the following documents that include the power to make decisions regarding health care services for myself:

- ..... Health care power of attorney (chapter 11.94 RCW)
- ..... "Living will" (Health care directive; chapter 70.122 RCW)

..... I have appointed more than one agent. I understand that the most recently appointed agent controls except as stated below:

PART VIII.

NOTIFICATION OF OTHERS AND CARE OF PERSONAL AFFAIRS

(Fill out this part only if you wish to provide nontreatment instructions.)

I understand the preferences and instructions in this part are NOT the responsibility of my treatment provider and that no treatment provider is required to act on them.

A. Who Should Be Notified

I desire my agent to notify the following individuals as soon as possible when this directive becomes effective:

Name: Address:  
Day telephone: Evening telephone:  
Name: Address:  
Day telephone: Evening telephone:

B. Preferences or Instructions About Personal Affairs

I have the following preferences or instructions about my personal affairs (e.g., care of dependents, pets, household) if I am admitted to a mental health treatment facility:

C. Additional Preferences and Instructions:

PART IX.

SIGNATURE

By signing here, I indicate that I understand the purpose and effect of this document and that I am giving my informed consent to the treatments and/or admission to which I have consented or authorized my agent to consent in this directive. I intend that my consent in this directive be construed as being consistent with the elements of informed consent under chapter 7.70 RCW.

Signature: Date:  
Printed Name:

This directive was signed and declared by the "Principal," to be his or her directive, in our presence who, at his or her request, have signed our names below as witnesses. We declare that, at the time of the creation of this instrument, the Principal is personally known to us, and, according to our best knowledge and belief, has capacity at this time and does not appear to be acting under duress, undue influence, or fraud. We further declare that none of us is:

- (A) A person designated to make medical decisions on the principal's behalf;
- (B) A health care provider or professional person directly involved with the provision of care to the principal at the time the directive is executed;
- (C) An owner, operator, employee, or relative of an owner or operator of a health care facility or long-term care facility in which the principal is a patient or resident;
- (D) A person who is related by blood, marriage, or adoption to the person, or with whom the principal has a dating relationship as defined in RCW 26.50.010;
- (E) An incapacitated person;
- (F) A person who would benefit financially if the principal undergoes mental health treatment; or

(G) A minor.

Witness 1: Signature: Date:

Printed Name:

Telephone: Address:

Witness 2: Signature: Date:

Printed Name:

Telephone: Address:

PART X.

RECORD OF DIRECTIVE

I have given a copy of this directive to the following persons:

DO NOT FILL OUT PART XI UNLESS YOU INTEND TO REVOKE

THIS DIRECTIVE IN PART OR IN WHOLE PART XI.

REVOCATION OF THIS DIRECTIVE

(Initial any that apply):

..... I am revoking the following part(s) of this directive (specify):

..... I am revoking all of this directive.

By signing here, I indicate that I understand the purpose and effect of my revocation and that no person is bound by any revoked provision(s). I intend this revocation to be interpreted as if I had never completed the revoked provision(s).

Signature: Date:

Printed Name:

DO NOT SIGN THIS PART UNLESS YOU INTEND TO REVOKE THIS

DIRECTIVE IN PART OR IN WHOLE

Sec. 17. RCW 71.34.020 and 2011 c 89 s 16 are each amended to read as follows:

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

(1) "Child psychiatrist" means a person having a license as a physician and surgeon in this state, who has had graduate training in child psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and who is board eligible or board certified in child psychiatry.

(2) "Children's mental health specialist" means:

(a) A mental health professional who has completed a minimum of one hundred actual hours, not quarter or semester hours, of specialized training devoted to the study of child development and the treatment of children; and

(b) A mental health professional who has the equivalent of one year of full-time experience in the treatment of children under the supervision of a children's mental health specialist.

(3) "Commitment" means a determination by a judge or court commissioner, made after a commitment hearing, that the minor is in need of inpatient diagnosis, evaluation, or treatment or that the minor is in need of less restrictive alternative treatment.

(4) "Department" means the department of social and health services.

(5) "Designated mental health professional" means a mental health professional designated by one or more counties to perform the functions of a designated mental health professional described in this chapter.

(6) "Evaluation and treatment facility" means a public or private facility or unit that is certified by the department to provide emergency, inpatient, residential, or outpatient mental health evaluation and treatment services for minors. A physically separate and separately-operated portion of a state hospital may

be designated as an evaluation and treatment facility for minors. A facility which is part of or operated by the department or federal agency does not require certification. No correctional institution or facility, juvenile court detention facility, or jail may be an evaluation and treatment facility within the meaning of this chapter.

(7) "Evaluation and treatment program" means the total system of services and facilities coordinated and approved by a county or combination of counties for the evaluation and treatment of minors under this chapter.

(8) "Gravely disabled minor" means a minor who, as a result of a mental disorder, 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 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.

(9) "Inpatient treatment" means twenty-four-hour-per-day mental health care provided within a general hospital, psychiatric hospital, or residential treatment facility certified by the department as an evaluation and treatment facility for minors.

(10) "Less restrictive alternative" or "less restrictive setting" means outpatient treatment provided to a minor who is not residing in a facility providing inpatient treatment as defined in this chapter.

(11) "Likelihood of serious harm" means either: (a) A substantial risk that physical harm will be inflicted by an individual upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (b) a substantial risk that physical harm will be inflicted by an individual 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 (c) a substantial risk that physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others.

(12) "Medical necessity" for inpatient care means a requested service which is reasonably calculated to: (a) Diagnose, correct, cure, or alleviate a mental disorder; or (b) prevent the worsening of mental conditions that endanger life or cause suffering and pain, or result in illness or infirmity or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no adequate less restrictive alternative available.

(13) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions. The presence of alcohol abuse, drug abuse, juvenile criminal history, antisocial behavior, or intellectual disabilities alone is insufficient to justify a finding of "mental disorder" within the meaning of this section.

(14) "Mental health professional" means a psychiatrist, physician assistant working with a supervising psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under this chapter.

(15) "Minor" means any person under the age of eighteen years.

(16) "Outpatient treatment" means any of the nonresidential services mandated under chapter 71.24 RCW and provided by licensed services providers as identified by RCW 71.24.025.

(17) "Parent" means:

(a) A biological or adoptive parent who has legal custody of the child, including either parent if custody is shared under a joint custody agreement; or

(b) A person or agency judicially appointed as legal guardian or custodian of the child.

(18) "Professional person in charge" or "professional person" means a physician or other mental health professional empowered by an evaluation and treatment facility with authority to make admission and discharge decisions on behalf of that facility.

(19) "Psychiatric nurse" means a registered nurse who has a bachelor's degree from an accredited college or university, and who has had, in addition, at least two years' experience in the direct treatment of persons who have a mental illness or who are emotionally disturbed, such experience gained under the supervision of a mental health professional. "Psychiatric nurse" shall also mean any other registered nurse who has three years of such experience.

(20) "Psychiatrist" means a person having a license as a physician in this state who has completed residency training in psychiatry in a program approved by the American Medical Association or the American Osteopathic Association, and is board eligible or board certified in psychiatry.

(21) "Psychologist" means a person licensed as a psychologist under chapter 18.83 RCW.

(22) "Responsible other" means the minor, the minor's parent or estate, or any other person legally responsible for support of the minor.

(23) "Secretary" means the secretary of the department or secretary's designee.

(24) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

(25) "Start of initial detention" means the time of arrival of the minor at the first evaluation and treatment facility offering inpatient treatment if the minor is being involuntarily detained at the time. With regard to voluntary patients, "start of initial detention" means the time at which the minor gives notice of intent to leave under the provisions of this chapter.

(26) "Physician assistant" means a person licensed as a physician assistant under chapter 18.57A or 18.71A RCW.

Sec. 18. RCW 71.34.355 and 2009 c 217 s 15 are each amended to read as follows:

Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

(1) To wear their own clothes and to keep and use personal possessions;

(2) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

(3) To have individual storage space for private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(7) To discuss treatment plans and decisions with mental health professionals;

(8) To have the right to adequate care and individualized treatment;

(9) Not to consent to the performance of electro-convulsive treatment or surgery, except emergency lifesaving surgery, upon him or her, and not to have electro-convulsive treatment or nonemergency surgery in such circumstance unless ordered by a court pursuant to a judicial hearing in which the minor is present and represented by counsel, and the court shall appoint a psychiatrist, physician assistant, psychologist, psychiatric advanced registered nurse practitioner, or physician designated by the minor or the minor's counsel to testify on behalf of the minor. The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

(10) Not to have psychosurgery performed on him or her under any circumstances.

Sec. 19. RCW 71.34.720 and 2009 c 217 s 16 are each amended to read as follows:

(1) Each minor approved by the facility for inpatient admission shall be examined and evaluated by a children's mental health specialist as to the child's mental condition and by a physician, physician assistant, or psychiatric advanced registered nurse practitioner as to the child's physical condition within twenty-four hours of admission. Reasonable measures shall be taken to ensure medical treatment is provided for any condition requiring immediate medical attention.

(2) If, after examination and evaluation, the children's mental health specialist and the physician, physician assistant, or psychiatric advanced registered nurse practitioner determine that the initial needs of the minor would be better served by placement in a chemical dependency treatment facility, then the minor shall be referred to an approved treatment program defined under RCW 70.96A.020.

(3) The admitting facility shall take reasonable steps to notify immediately the minor's parent of the admission.

(4) During the initial seventy-two hour treatment period, the minor has a right to associate or receive communications from parents or others unless the professional person in charge determines that such communication would be seriously detrimental to the minor's condition or treatment and so indicates in the minor's clinical record, and notifies the minor's parents of this determination. In no event may the minor be denied the opportunity to consult an attorney.

(5) If the evaluation and treatment facility admits the minor, it may detain the minor for evaluation and treatment for a period not to exceed seventy-two hours from the time of provisional acceptance. The computation of such seventy-two hour period shall exclude Saturdays, Sundays, and holidays. This initial treatment period shall not exceed seventy-two hours except when an application for voluntary inpatient treatment is received or a petition for fourteen-day commitment is filed.

(6) Within twelve hours of the admission, the facility shall advise the minor of his or her rights as set forth in this chapter.

Sec. 20. RCW 71.34.730 and 2009 c 293 s 6 and 2009 c 217 s 17 are each amended to read as follows:

(1) The professional person in charge of an evaluation and treatment facility where a minor has been admitted involuntarily for the initial seventy-two hour treatment period under this chapter may petition to have a minor committed to an evaluation and treatment facility for fourteen-day diagnosis, evaluation, and treatment.

If the professional person in charge of the treatment and evaluation facility does not petition to have the minor committed, the parent who has custody of the minor may seek review of that decision in court. The parent shall file notice with the court and provide a copy of the treatment and evaluation facility's report.

(2) A petition for commitment of a minor under this section shall be filed with the superior court in the county where the minor is residing or being detained.

(a) A petition for a fourteen-day commitment shall be signed by: (i) Two physicians(.); (ii) ((two psychiatric advanced registered nurse practitioners, (iii) a mental health professional and either a physician or a psychiatric advanced registered nurse practitioner, or (iv) a physician and a psychiatric advanced registered nurse practitioner)) one physician and a mental health professional; (iii) one physician assistant and a mental health professional; or (iv) one psychiatric advanced registered nurse practitioner and a mental health professional. The person signing the petition must have examined the minor, and the petition must contain the following:

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- (A) The name and address of the petitioner;
- (B) The name of the minor alleged to meet the criteria for fourteen-day commitment;
- (C) The name, telephone number, and address if known of every person believed by the petitioner to be legally responsible for the minor;
- (D) A statement that the petitioner has examined the minor and finds that the minor's condition meets required criteria for fourteen-day commitment and the supporting facts therefor;
- (E) A statement that the minor has been advised of the need for voluntary treatment but has been unwilling or unable to consent to necessary treatment;
- (F) A statement that the minor has been advised of the loss of firearm rights if involuntarily committed;
- (G) A statement recommending the appropriate facility or facilities to provide the necessary treatment; and
- (H) A statement concerning whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(b) A copy of the petition shall be personally delivered to the minor by the petitioner or petitioner's designee. A copy of the petition shall be sent to the minor's attorney and the minor's parent.

Sec. 21. RCW 71.34.750 and 2009 c 217 s 18 are each amended to read as follows:

(1) At any time during the minor's period of fourteen-day commitment, the professional person in charge may petition the court for an order requiring the minor to undergo an additional one hundred eighty-day period of treatment. The evidence in support of the petition shall be presented by the county prosecutor unless the petition is filed by the professional person in charge of a state-operated facility in which case the evidence shall be presented by the attorney general.

(2) The petition for one hundred eighty-day commitment shall contain the following:

- (a) The name and address of the petitioner or petitioners;
- (b) The name of the minor alleged to meet the criteria for one hundred eighty-day commitment;
- (c) A statement that the petitioner is the professional person in charge of the evaluation and treatment facility responsible for the treatment of the minor;
- (d) The date of the fourteen-day commitment order; and
- (e) A summary of the facts supporting the petition.

(3) The petition shall be supported by accompanying affidavits signed by: (a) Two examining physicians, one of whom shall be a child psychiatrist, or two psychiatric advanced registered nurse practitioners, one of whom shall be a child and adolescent or family psychiatric advanced registered nurse practitioner, or two physician assistants, one of whom must be supervised by a child psychiatrist; (b) one children's mental health specialist and either an examining physician, physician assistant, or a psychiatric advanced registered nurse practitioner((,)); or (c) two among an examining physician, physician assistant, and a psychiatric advanced registered nurse practitioner, one of which needs to be a child psychiatrist a physician assistant supervised by a child psychiatrist, or a child and adolescent psychiatric nurse practitioner. The affidavits shall describe in detail the behavior of the detained minor which supports the petition and shall state whether a less restrictive alternative to inpatient treatment is in the best interests of the minor.

(4) The petition for one hundred eighty-day commitment shall be filed with the clerk of the court at least three days before the expiration of the fourteen-day commitment period. The petitioner or the petitioner's designee shall within twenty-four hours of filing serve a copy of the petition on the minor and notify the

minor's attorney and the minor's parent. A copy of the petition shall be provided to such persons at least twenty-four hours prior to the hearing.

(5) At the time of filing, the court shall set a date within seven days for the hearing on the petition. The court may continue the hearing upon the written request of the minor or the minor's attorney for not more than ten days. The minor or the parents shall be afforded the same rights as in a fourteen-day commitment hearing. Treatment of the minor shall continue pending the proceeding.

(6) For one hundred eighty-day commitment, the court must find by clear, cogent, and convincing evidence that the minor:

- (a) Is suffering from a mental disorder;
- (b) Presents a likelihood of serious harm or is gravely disabled; and
- (c) Is in need of further treatment that only can be provided in a one hundred eighty-day commitment.

(7) If the court finds that the criteria for commitment are met and that less restrictive treatment in a community setting is not appropriate or available, the court shall order the minor committed for further inpatient treatment to the custody of the secretary or to a private treatment and evaluation facility if the minor's parents have assumed responsibility for payment for the treatment. If the court finds that a less restrictive alternative is in the best interest of the minor, the court shall order less restrictive alternative treatment upon such conditions as necessary.

If the court determines that the minor does not meet the criteria for one hundred eighty-day commitment, the minor shall be released.

(8) Successive one hundred eighty-day commitments are permissible on the same grounds and under the same procedures as the original one hundred eighty-day commitment. Such petitions shall be filed at least five days prior to the expiration of the previous one hundred eighty-day commitment order.

Sec. 22. RCW 71.34.770 and 2009 c 217 s 19 are each amended to read as follows:

(1) The professional person in charge of the inpatient treatment facility may authorize release for the minor under such conditions as appropriate. Conditional release may be revoked pursuant to RCW 71.34.780 if leave conditions are not met or the minor's functioning substantially deteriorates.

(2) Minors may be discharged prior to expiration of the commitment period if the treating physician, physician assistant, psychiatric advanced registered nurse practitioner, or professional person in charge concludes that the minor no longer meets commitment criteria.

Sec. 23. RCW 18.71A.030 and 2013 c 203 s 6 are each amended to read as follows:

(1) A physician assistant may practice medicine in this state only with the approval of the delegation agreement by the commission and only to the extent permitted by the commission. A physician assistant who has received a license but who has not received commission approval of the delegation agreement under RCW 18.71A.040 may not practice. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

(2) Physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their commission-approved delegation agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the degree of supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery as long as the practice is not beyond the supervising physician's own scope of expertise and practice.

Sec. 24. RCW 18.57A.030 and 2013 c 203 s 3 are each

amended to read as follows:

(1) An osteopathic physician assistant as defined in this chapter may practice osteopathic medicine in this state only with the approval of the delegation agreement by the board and only to the extent permitted by the board. An osteopathic physician assistant who has received a license but who has not received board approval of the delegation agreement under RCW 18.57A.040 may not practice. An osteopathic physician assistant shall be subject to discipline by the board under the provisions of chapter 18.130 RCW.

(2) Osteopathic physician assistants may provide services that they are competent to perform based on their education, training, and experience and that are consistent with their board-approved delegation agreement. The supervising physician and the physician assistant shall determine which procedures may be performed and the degree of supervision under which the procedure is performed. Physician assistants may practice in any area of medicine or surgery so long as the practice is not beyond the supervising physician's own scope of expertise and practice."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6445.

Senator Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6445.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6445 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6445, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6445, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6445, as amended by the House, 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 Schoesler, and without objection, Senator Dansel was excused.

#### MESSAGE FROM THE HOUSE

March 2, 2016

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6427 with the following amendment(s): 6427-S.E AMH FIN H4555.20.

On page 2, beginning on line 3, after "country," strike all material through "location." on line 6 and insert "The seller must document the delivery by completing a declaration, which must be signed by the seller and the buyer. The declaration must be limited to attestation regarding the location of delivery and the enrollment status of the tribal member. The department may develop a form for the declaration."

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Fain moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6427.

Senator Fain spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fain that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6427.

The motion by Senator Fain carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6427 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6427, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6427, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senators Baumgartner and Dansel

ENGROSSED SUBSTITUTE SENATE BILL NO. 6427, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6338 with the following amendment(s): 6338-S AMH JUDI H4584.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 23.86.135 and 1989 c 307 s 30 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a member of an association shall have the right to dissent from any

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of the following association actions:

((1)) (a) Any plan of merger or consolidation to which the association is a party;

((2)) (b) Any plan of conversion of the association to an ordinary business corporation; or

((3)) (c) Any sale or exchange of all or substantially all of the property and assets of the association not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of the sale be distributed to the members in accordance with their respective interests within one year from the date of sale.

(2) A member of a rural electric association is not entitled to dissent from a merger to which the association is a party if all members of the association have the right to continue their membership status in the surviving association on substantially similar terms."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6338.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6338.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6338 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6338, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6338, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6338, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6314

with the following amendment(s): 6314-S AMH LG JONC 091

On page 1, beginning on line 13, after "vacation." strike all material through "benefit" on line 18 and insert "In determining the appropriate compensation for the road or right-of-way, the board may adjust the appraised value to reflect the value of the transfer of liability or risk, the increased value to the public in property taxes, the avoided costs for management or maintenance, and any limits on development or future public benefit"

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Fain moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6314.

Senator Fain spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fain that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6314.

The motion by Senator Fain carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6314 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6314, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6314, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senator Padden

Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6314, as amended by the House, 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

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

SENATE BILL NO. 5143,  
SENATE BILL NO. 5270,  
SUBSTITUTE SENATE BILL NO. 5597,  
SUBSTITUTE SENATE BILL NO. 5670,  
SUBSTITUTE SENATE BILL NO. 6117,  
SENATE BILL NO. 6156,  
ENGROSSED SENATE BILL NO. 6166,  
SENATE BILL NO. 6171,  
SENATE BILL NO. 6245,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6248,  
SUBSTITUTE SENATE BILL NO. 6283,

SENATE BILL NO. 6325,  
 SUBSTITUTE SENATE BILL NO. 6358,  
 SENATE BILL NO. 6400,  
 SENATE BILL NO. 6405,  
 SUBSTITUTE SENATE BILL NO. 6449,  
 SENATE BILL NO. 6475,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6513,  
 ENGROSSED SENATE BILL NO. 6589,  
 SENATE BILL NO. 6607,  
 SENATE JOINT MEMORIAL NO. 8019,  
 SENATE JOINT RESOLUTION NO. 8210

MESSAGE FROM THE HOUSE

March 1, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6165 with the following amendment(s): 6165-S AMH JUDI H4589.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.41.190 and 2014 c 201 s 1 are each amended to read as follows:

(1) Except as otherwise provided in this section, it is unlawful for any person to:

(a) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, short-barreled shotgun, or short-barreled rifle; ((or))

(b) Manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any part designed and intended solely and exclusively for use in a machine gun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle; or ((to))

(c) Assemble or repair any machine gun, short-barreled shotgun, or short-barreled rifle.

(2) It is not unlawful for a person to ((possess, transport, acquire, or transfer a short-barreled rifle that is legally registered and possessed, transported, acquired, or transferred in accordance)) manufacture, own, buy, sell, loan, furnish, transport, assemble, or repair, or have in possession or under control, a short-barreled rifle, or any part designed or intended solely and exclusively for use in a short-barreled rifle or in converting a weapon into a short-barreled rifle, if the person is in compliance with applicable federal law.

(3) Subsection (1) of this section shall not apply to:

(a) Any peace officer in the discharge of official duty or traveling to or from official duty, or to any officer or member of the armed forces of the United States or the state of Washington in the discharge of official duty or traveling to or from official duty; or

(b) A person, including an employee of such person if the employee has undergone fingerprinting and a background check, who or which is exempt from or licensed under federal law, and engaged in the production, manufacture, repair, or testing of machine guns, short-barreled shotguns, or short-barreled rifles:

(i) To be used or purchased by the armed forces of the United States;

(ii) To be used or purchased by federal, state, county, or municipal law enforcement agencies; or

(iii) For exportation in compliance with all applicable federal laws and regulations.

(4) It shall be an affirmative defense to a prosecution brought under this section that the machine gun or short-barreled shotgun was acquired prior to July 1, 1994, and is possessed in compliance with federal law.

(5) Any person violating this section is guilty of a class C felony."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6165.

Senators Padden and Takko spoke in favor of the motion.

POINT OF INQUIRY

Senator Hargrove: "Will Senator Padden yield to a question?"

REPLY BY THE PRESIDENT

President Owen: "He does not yield."

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6165.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6165 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6165, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6165, as amended by the House, and the bill passed the Senate by the following vote:

Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senators Frockt, Habib, Jayapal and Liias

Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6165, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 1, 2016

MR. PRESIDENT:

The House passed SENATE BILL NO. 5879 with the following amendment(s): 5879 AMH ELHS H4514.10.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.195.010 and 1998 c 245 s 125 are each amended to read as follows:

For the purposes of implementing this chapter, the governor shall appoint a state ((birth-to-six)) birth-to-three interagency coordinating council and ensure that state agencies involved in

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the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families shall coordinate and collaborate in the planning and delivery of such services.

No state or local agency currently providing early intervention services to infants and toddlers with disabilities may use funds appropriated for early intervention services for infants and toddlers with disabilities to supplant funds from other sources.

All state and local agencies shall ensure that the implementation of this chapter will not cause any interruption in existing early intervention services for infants and toddlers with disabilities.

Nothing in this chapter shall be construed to permit the restriction or reduction of eligibility under Title V of the Social Security Act, P.L. 90-248, relating to maternal and child health or Title XIX of the Social Security Act, P.L. 89-97, relating to Medicaid for infants and toddlers with disabilities.

Sec. 2. RCW 70.195.020 and 1992 c 198 s 17 are each amended to read as follows:

The state ((birth-to-six)) birth-to-three interagency coordinating council shall identify and work with county early childhood interagency coordinating councils to coordinate and enhance existing early intervention services and assist each community to meet the needs of infants and toddlers with disabilities and their families.

Sec. 3. RCW 28A.155.065 and 2007 c 115 s 7 are each amended to read as follows:

(1) ((By September 1, 2009,)) Each school district shall provide or contract for early intervention services to all eligible children with disabilities from birth to three years of age. Eligibility shall be determined according to Part C of the federal individuals with disabilities education ((improvement)) act or other applicable federal and state laws, and as specified in the Washington Administrative Code adopted by the state lead agency, which is the department of early learning. School districts shall provide or contract, or both, for early intervention services in partnership with local birth-to-three lead agencies and birth-to-three providers. Services provided under this section shall not supplant services or funding currently provided in the state for early intervention services to eligible children with disabilities from birth to three years of age. The state-designated birth-to-three lead agency shall be payor of last resort for birth-to-three early intervention services provided under this section.

(2)(a) By October 1, 2016, the office of the superintendent of public instruction shall provide the department of early learning, in its role as state lead agency, with a full accounting of the school district expenditures from the 2013-14 and 2014-15 school years, disaggregated by district, for birth-to-three early intervention services provided under this section.

(b) The reported expenditures must include, but are not limited to per student allocations, per student expenditures, the number of children served, detailed information on services provided by school districts and contracted for by school districts, coordination and transition services, and administrative costs.

(3) The services in this section are not part of the state's program of basic education pursuant to Article IX of the state Constitution.

NEW SECTION. Sec. 4. (1) The department of early learning shall provide a full accounting of the early support for infants and toddlers expenditures from the 2013-14 and 2014-15 school years in the plan required under section 6 of this act. The accounting shall include the reported expenditures from the office of the superintendent of public instruction required under section 3 of this act.

(2) This section expires August 1, 2017.

Sec. 5. RCW 43.215.020 and 2013 c 323 s 5 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To make early learning resources available to parents and caregivers;

(c) To carry out activities, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To apply data already collected comparing the following factors and make biennial recommendations to the legislature regarding working connections subsidy and state-funded preschool rates and compensation models that would attract and retain high quality early learning professionals:

(i) State-funded early learning subsidy rates and market rates of licensed early learning homes and centers;

(ii) Compensation of early learning educators in licensed centers and homes and early learning teachers at state higher education institutions;

(iii) State-funded preschool program compensation rates and Washington state head start program compensation rates; and

(iv) State-funded preschool program compensation to compensation in similar comprehensive programs in other states;

(f) To serve as the state lead agency for Part C of the federal individuals with disabilities education act (IDEA) and to develop and adopt rules that establish minimum requirements for the services offered through Part C programs, including allowable allocations and expenditures for transition into Part B of the federal individuals with disabilities education act (IDEA);

(g) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(h) To support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(i) To work cooperatively and in coordination with the early learning council;

(j) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs;

(k) To develop and adopt rules for administration of the program of early learning established in RCW ((43.215.141)) 43.215.455;

(l) To develop a comprehensive birth-to-three plan to provide education and support through a continuum of options including, but not limited to, services such as: Home visiting; quality incentives for infant and toddler child care subsidies; quality improvements for family home and center-based child care programs serving infants and toddlers; professional development; early literacy programs; and informal supports for family, friend, and neighbor caregivers; and

(m) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information and provider comments through the internet and other means.

(3) When additional funds are appropriated for the specific purpose of home visiting and parent and caregiver support, the department must reserve at least eighty percent for home visiting services to be deposited into the home visiting services account and up to twenty percent of the new funds for other parent or caregiver support.

(4) Home visiting services must include programs that serve families involved in the child welfare system.

(5) Subject to the availability of amounts appropriated for this specific purpose, the legislature shall fund the expansion in the Washington state preschool program pursuant to RCW ((43.215.142)) 43.215.456 in fiscal year 2014.

(6) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children, and that recognizes and honors cultural and linguistic diversity. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. Sec. 6. By December 15, 2016, the department of early learning shall develop and submit a plan to the appropriate committees of the legislature on comprehensive and coordinated early intervention services for all eligible children with disabilities in accordance with Part C of the federal individuals with disabilities education act. The proposed plan shall include, but is not limited to, the following:

(1) A full accounting of all the expenditures related to early support for infants and toddlers from both the department of early learning and the office of the superintendent of public instruction as required in RCW 28A.155.065 and section 4 of this act;

(2) The identification and proposal for coordination of all available public financial resources within the state from federal, state, and local sources;

(3) A design for an integrated early learning intervention system for all eligible infants and toddlers who have been diagnosed with a disability or developmental delays and their families;

(4) The development of procedures that ensure services are provided to all eligible infants and toddlers and their families in a consistent and timely manner; and

(5) A proposal for the integration of early support for infants and toddlers services with other critical services available for children birth to age three and their families.

NEW SECTION. Sec. 7. RCW 70.195.005, 70.195.010, 70.195.020, and 70.195.030 are each recodified as sections in chapter 43.215 RCW."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Billig moved that the Senate concur in the House amendment(s) to Senate Bill No. 5879.

Senator Billig spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Billig that the Senate concur in the House amendment(s) to Senate Bill No. 5879.

The motion by Senator Billig carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5879 by voice vote.

The President declared the question before the Senate to be the

final passage of Senate Bill No. 5879, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5879, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Danel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senator Padden

Excused: Senator Baumgartner

SENATE BILL NO. 5879, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6203 with the following amendment(s): 6203-S.E AMH HCW H4539.2

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.64.011 and 2015 c 234 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a business license application and a business license expiration date common to each renewable license endorsement.

(3) "Commission" means the pharmacy quality assurance commission.

(4) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription.

(5) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(6) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

(7) "Department" means the department of health.

(8) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(9) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that

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prescription or order for delivery.

(10) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(11) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(12) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(13) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state to acquire or possess legend drugs. Health care entity includes a freestanding outpatient surgery center, a residential treatment facility, and a freestanding cardiac care center. "Health care entity" does not include an individual practitioner's office or a multipractitioner clinic, regardless of ownership, unless the owner elects licensure as a health care entity. "Health care entity" also does not include an individual practitioner's office or multipractitioner clinic identified by a hospital on a pharmacy application or renewal pursuant to RCW 18.64.043.

(14) "Labeling" means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(15) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(16) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device, or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the commission. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable

quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(17) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(18) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(19) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(20) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(21) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

(22) "Poison" does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(23) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(28) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(29) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

(30) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(31) "Institutional facility" means any organization whose

primary purpose is to provide a physical environment for patients to obtain health care services including, but not limited to, services in a hospital, long-term care facility, hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

(32) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(33) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill authorizations, reviewing therapeutic interventions, or reviewing chart orders.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.64 RCW to read as follows:

(1) A chart order must be considered a prescription if it contains:

- (a) The full name of the patient;
- (b) The date of issuance;
- (c) The name, strength, and dosage form of the drug prescribed;
- (d) Directions for use; and
- (e) An authorized signature:

(i) For written orders, the order must contain the prescribing practitioner's signature or the signature of the practitioner's authorized agent, including the name of the prescribing practitioner; or

(ii) For electronic or digital orders, the order must contain the prescribing practitioner's electronic or digital signature, or the electronic or digital signature of the practitioner's authorized agent, including the name of the prescribing practitioner.

(2) A licensed nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this chapter, without need for a written agency agreement, to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature; or to communicate a prescription to a pharmacy whether telephonically, via facsimile, or electronically. The communication of a prescription to a dispenser by the prescriber's agent has the same force and effect as if communicated directly by the authorized practitioner.

(3) Nothing in this chapter prevents an authorized credentialed employee of a long-term care facility from transmitting a chart order pursuant to RCW 74.42.230, or transmitting a prescription on behalf of a resident to the extent otherwise authorized by law.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.64 RCW to read as follows:

(1) A pharmacy or pharmacist may provide a limited quantity of drugs to a nursing home or hospice program without a prescription for emergency administration by authorized personnel of the facility or program pursuant to a valid prescription. The drugs so provided must be limited to those required to meet the immediate therapeutic needs of residents or patients and may not be available from another authorized source in sufficient time to prevent risk of harm by delay resulting from obtaining drugs from another source. Emergency kits must be secured in a locked room, container, or device to prevent unauthorized access and to ensure the proper environment for preservation of the drugs.

(2) In addition to or in connection with the emergency kit

authorized under subsection (1) of this section, a nursing home that employs a unit dose drug distribution system may maintain a supplemental dose kit for supplemental nonemergency drug therapy. Supplemental dose kits must be secured in a locked room, container, or device to prevent unauthorized access, and to ensure the proper environment for preservation of the drugs. Administration of drugs from a supplemental dose kit must be under a valid prescription or chart order.

(3) The types and quantity of drugs appropriate to serve the resident or patient population of a nursing home or hospice program using an emergency kit or supplemental dose kit and procedures for the proper storage and security of drugs must be determined by a pharmaceutical services committee that includes a pharmacist licensed under this chapter, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW, and appropriate clinical or administrative personnel of the nursing home or hospice program as set forth in rules adopted by the pharmacy quality assurance commission.

(4) A registered nurse or licensed practical nurse operating under appropriate direction and supervision by a pharmacist may restock an emergency kit or supplemental dose kit to provide for safe and timely patient access.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.64 RCW to read as follows:

(1) A pharmacy may resupply a legend drug to a patient at a long-term care facility or hospice program pursuant to a valid chart order that is signed by the prescribing practitioner, is not time limited, and has not been discontinued.

(2) A pharmacy may outsource shared pharmacy services for a long-term care facility or hospice program to another pharmacy if the outsourcing pharmacy:

(a) Obtains approval from the long-term care facility or hospice program to outsource shared pharmacy services for the facility's or program's residents or patients; and

(b) Provides a copy of the prescription or order to the pharmacy providing the shared pharmacy services.

(3) Shared pharmacy services may be used for, but are not limited to, the purpose of ensuring that drugs or devices are attainable to meet the immediate needs of residents of the long-term care facility or hospice program, or when the outsourcing pharmacy cannot provide services on an ongoing basis. Where a pharmacy uses shared pharmacy services to have a second pharmacy provide a first dose or partial fill of a prescription or drug order to meet a patient's or resident's immediate needs, the second supplying pharmacy may dispense the first dose or partially filled prescription on a satellite basis without the outsourcing pharmacy being required to fully transfer the prescription to the supplying pharmacy. The supplying pharmacy must retain a copy of the prescription or order on file, a copy of the dispensing record or fill, and must notify the outsourcing pharmacy of the service and quantity provided.

(4) A pharmacy may repackage and dispense unused drugs returned by a long-term care facility or hospice program to the pharmacy in per-use, blister packaging, whether in unit dose or modified unit dose form, except as prohibited by federal law. The commission must adopt rules providing for the safe and efficient repackaging, reuse, and disposal of unused drugs returned to a pharmacy from a long-term care facility or hospice program. In adopting rules, the commission must take into consideration the acceptance and dispensing requirements of RCW 69.70.050 (1), (2), and (5).

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.64 RCW to read as follows:

The commission must adopt reasonable, task-based standards

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regarding the ratio of pharmacists to pharmacy technicians in a closed door long-term care pharmacy. For the purpose of such standards, a pharmacy technician licensed under chapter 18.64A RCW may not be considered to be practicing as a pharmacy technician while performing administrative tasks not associated with immediate dispensing of drugs that may lawfully be performed by a registered pharmacy assistant. Administrative tasks not associated with immediate dispensing of drugs include but are not necessarily limited to medical records maintenance, billing, prepackaging unit dose drugs, inventory control, delivery, and processing returned drugs.

NEW SECTION. Sec. 6. A new section is added to chapter 18.64 RCW to read as follows:

The commission may adopt rules implementing sections 2 through 5 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 69.41 RCW to read as follows:

(1) A pharmacy may dispense legend drugs to the resident of a long-term care facility or hospice program on the basis of a written or digitally signed prescription or chart order sent via facsimile copy by the prescriber to the long-term care facility or hospice program, and communicated or transmitted to the pharmacy pursuant to section 2 of this act.

(2) For the purpose of this section, the terms "long-term care facility," "hospice program," and "chart order" have the meanings provided in RCW 18.64.011.

Sec. 8. RCW 69.50.308 and 2013 c 276 s 3 are each amended to read as follows:

(a) A controlled substance may be dispensed only as provided in this section. Prescriptions electronically communicated must also meet the requirements under RCW 69.50.312.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written or electronically communicated prescription of a practitioner.

(1) Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility or a hospice program ((certified or paid by medicare under Title XVIII of the federal social security act. "Long-term care facility" means nursing homes licensed under chapter 18.51 RCW, assisted living facilities licensed under chapter 18.20 RCW, and adult family homes licensed under chapter 70.128 RCW; or

(iii) The facsimile prescription is for a patient of a hospice program licensed by the state); and

((iv)) (iii) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) Under (1) and (2) of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) In emergency situations, as defined by rule of the commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW

69.50.306.

(d) A prescription for a substance included in Schedule II may not be refilled. A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(e) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing.

(f) A written, oral, or electronically communicated prescription for a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, for a resident in a long-term care facility or hospice program may be communicated to the pharmacy by an authorized agent of the prescriber. A registered nurse, pharmacist, or physician practicing in a long-term care facility or hospice program may act as the practitioner's agent for purposes of this section, without need for a written agency agreement.

(g) The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless renewed by the practitioner.

((g)) (h) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

((h)) (i) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

((i)) (j) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

((j)) (k) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

((k)) (l) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

(4) For the purposes of this section, the terms "long-term care facility" and "hospice program" have the meaning provided in RCW 18.64.011.

Sec. 9. RCW 74.42.230 and 1994 sp.s. c 9 s 751 are each amended to read as follows:

(1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall ((be limited by time)) continue in effect until discontinued by a physician or other authorized prescriber, unless the order is specifically limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.79 RCW

when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, ((or)) a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or a pharmacist under chapter 18.64 RCW when authorized by the pharmacy quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and physically or electronically signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

(3) A licensed nurse, pharmacist, or another physician receiving and recording an oral order may, if so authorized by the physician or authorized practitioner, communicate that order to a pharmacy on behalf of the physician or authorized practitioner. The order may be communicated verbally by telephone, by facsimile manually signed by the person receiving the order pursuant to subsection (2) of this section, or by electronic transmission pursuant to RCW 69.41.055. The communication of a resident's order to a pharmacy by a licensed nurse, pharmacist, or another physician acting at the prescriber's direction has the same force and effect as if communicated directly by the delegating physician or authorized practitioner. Nothing in this provision limits the authority of a licensed nurse, pharmacist, or physician to delegate to an authorized agent, including but not limited to delegation of operation of a facsimile machine by credentialed facility staff, to the extent consistent with his or her professional license.

Sec. 10. RCW 69.41.010 and 2013 c 276 s 1 and 2013 c 19 s 55 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Community-based care settings" include: Community residential programs for persons with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Dispenser" means a practitioner who dispenses.

(7) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(8) "Distributor" means a person who distributes.

(9) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure,

mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(10) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(11) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(12) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(13) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(14) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(15) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(16) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

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(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(17) "Secretary" means the secretary of health or the secretary's designee.

(18) "Commission" means the pharmacy quality assurance commission.

Sec. 11. RCW 69.41.030 and 2013 c 71 s 1 and 2013 c 12 s 1 are each reenacted and amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the ((board of pharmacy)) commission and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

Sec. 12. RCW 69.41.032 and 1987 c 41 s 2 are each amended to read as follows:

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if

prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the ((board)) commission pursuant to rule.

Sec. 13. RCW 69.41.042 and 1989 1st ex.s. c 9 s 405 are each amended to read as follows:

A pharmaceutical manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs shall maintain invoices or such other records as are necessary to account for the receipt and disposition of the legend drugs.

The records maintained pursuant to this section shall be available for inspection by the ((board)) commission and its authorized representatives and shall be maintained for two years.

Sec. 14. RCW 69.41.044 and 2005 c 274 s 328 are each amended to read as follows:

All records, reports, and information obtained by the ((board)) commission or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or the proceedings of the ((board)) commission so long as the ((board)) commission and its authorized representatives comply with the provisions of chapter 42.56 RCW.

Sec. 15. RCW 69.41.055 and 1998 c 222 s 2 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

(b) The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the ((board)) commission. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The ((board)) commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the ((board)) commission;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of

prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the ((board)) commission.

(2) The electronic or digital signature of the prescribing practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under section 2 of this act, constitutes a valid electronic communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The ((board)) commission may adopt rules implementing this section.

Sec. 16. RCW 69.41.220 and 1989 1st ex.s. c 9 s 428 are each amended to read as follows:

Each manufacturer and distributor shall publish and provide to the ((board)) commission by filing with the department printed material which will identify each current imprint used by the manufacturer or distributor. The ((board)) commission shall be notified of any change by the filing of any change with the department. This information shall be provided by the department to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.

Sec. 17. RCW 18.64.245 and 2013 c 19 s 17 are each amended to read as follows:

(1) Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All recordkeeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only. The record of prescriptions shall be open for inspection by the commission or any officer of the law, who is authorized to enforce this chapter ((18.64,)) or chapter 69.41((,)) or 69.50 RCW.

(2) When a pharmacy receives a prescription in digital or electronic format through facsimile equipment transmitting an exact visual image of the prescription, or through electronic communication of prescription information, the digital or electronic record of every such prescription dispensed at the pharmacy constitutes a suitable record of prescriptions, provided that the original or direct copy of the prescription is electronically or digitally numbered or referenced, dated, and filed in a form that permits the information required to be readily retrievable.

(3) A person violating this section is guilty of a misdemeanor.

Sec. 18. RCW 18.64.500 and 2013 c 19 s 30 are each amended to read as follows:

(1) ((Effective July 1, 2010,)) Every prescription written in this state by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the commission.

(2) A pharmacist may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper, except that a pharmacist may provide emergency supplies in accordance with the commission

and other insurance contract requirements.

(3) If a hard copy of an electronic prescription is given directly to the patient, the manually signed hard copy prescription must be on approved tamper-resistant paper that meets the requirements of this section.

(4) For the purposes of this section, "tamper-resistant prescription pads or paper" means a prescription pad or paper that has been approved by the commission for use and contains the following characteristics:

(a) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(b) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription form by the practitioner; and

(c) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(5) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized use of prescriptions.

(6) All vendors must have their tamper-resistant prescription pads or paper approved by the commission prior to the marketing or sale of pads or paper in Washington state.

(7) The commission shall create a seal of approval that confirms that a pad or paper contains all three industry-recognized characteristics required by this section. The seal must be affixed to all prescription pads or paper used in this state.

(8) The commission may adopt rules necessary for the administration of chapter 328, Laws of 2009.

(9) The tamper-resistant prescription pad or paper requirements in this section shall not apply to:

(a) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or

(b) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents of a ((nursing home)) long-term care facility, patients of a hospice program, inpatients or residents of a mental health facility, or individuals incarcerated in a local, state, or federal correction facility, when the health care practitioner authorized to write prescriptions, or his or her authorized agent, writes the order into the patient's medical or clinical record, the order is given directly to the pharmacy, and the patient never has the opportunity to handle the written order.

(10) All acts related to the prescribing, dispensing, and records maintenance of all prescriptions shall be in compliance with applicable federal and state laws, rules, and regulations."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6203.

Senator Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6203.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6203 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6203, as amended by the House.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6203, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Habib, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senator Baumgartner

ENGROSSED SUBSTITUTE SENATE BILL NO. 6203, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6430 with the following amendment(s): 6430-S AMH APP H4640.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Persons with mental illness and persons with substance use disorders in the custody of the criminal justice system need seamless access to community treatment networks and medical assistance upon release from custody to prevent gaps in treatment and reduce barriers to accessing care. Access to care is critical to reduce recidivism and reduce costs associated with relapse, decompensation, and crisis care. In accord with the recommendations of the adult behavioral health system task force, persons should be allowed to apply or retain their enrollment in medical assistance during periods of incarceration. The legislature intends for the Washington state health care authority and the department of social and health services to raise awareness of best clinical practices to engage persons with behavioral health disorders and other chronic conditions during periods of incarceration and confinement to highlight opportunities for good preventive care and standardize reporting and payment practices for services reimbursable by federal law that support the safe transition of the person back into the community.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

The authority is directed to suspend, rather than terminate, medical assistance benefits by July 1, 2017, for persons who are incarcerated or committed to a state hospital. This must include the ability for a person to apply for medical assistance in suspense status during incarceration, and may not depend upon knowledge of the release date of the person. The authority must provide a progress report describing program design and a detailed fiscal estimate to the governor and relevant committees of the legislature by December 1, 2016.

NEW SECTION. Sec. 3. A new section is added to chapter 71.24 RCW to read as follows:

The department and the Washington state health care authority shall publish written guidance and provide trainings to behavioral health organizations, managed care organizations, and behavioral health providers related to how these organizations may provide outreach, assistance, transition planning, and rehabilitation case

management reimbursable under federal law to persons who are incarcerated, involuntarily hospitalized, or in the process of transitioning out of one of these services. The guidance and trainings may also highlight preventive activities not reimbursable under federal law which may be cost-effective in a managed care environment. The purpose of this written guidance and trainings is to champion best clinical practices including, where appropriate, use of care coordination and long-acting injectable psychotropic medication, and to assist the health community to leverage federal funds and standardize payment and reporting procedures. The authority and the department shall construe governing laws liberally to effectuate the broad remedial purposes of this act, and provide a status update to the legislature by December 31, 2016.

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

The authority shall collaborate with the department, the Washington state association of counties, the Washington association of sheriffs and police chiefs, and accountable communities of health to improve population health and reduce avoidable use of intensive services and settings by requesting expenditure authority from the federal government to provide behavioral health services to persons who are incarcerated in local jails. The authority in consultation with its partners may narrow its submission to discrete programs or regions of the state as deemed advisable to effectively demonstrate the potential to achieve savings by integrating medical assistance across community and correctional settings.

NEW SECTION. Sec. 5. A new section is added to chapter 74.09 RCW to read as follows:

It is the understanding of the legislature that persons participating in a work release program or other partial confinement programs at the state, county, or city level which allow regular freedom during the day to pursue rehabilitative community activities such as participation in work, treatment, or medical care should not be considered "inmates of a public institution" for the purposes of exclusion from medicaid coverage under the social security act. The authority is instructed to obtain any permissions from the federal government necessary to confirm this understanding, and report back to the governor and relevant committees of the legislature.

Sec. 6. RCW 70.48.100 and 2014 c 225 s 105 are each amended to read as follows:

(1) A department of corrections or chief law enforcement officer responsible for the operation of a jail shall maintain a jail register, open to the public, into which shall be entered in a timely basis:

(a) The name of each person confined in the jail with the hour, date and cause of the confinement; and

(b) The hour, date and manner of each person's discharge.

(2) Except as provided in subsection (3) of this section, the records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies as defined in RCW 43.43.705; or

(a) For use in inspections made pursuant to RCW 70.48.070;

(b) In jail certification proceedings;

(c) For use in court proceedings upon the written order of the court in which the proceedings are conducted;

(d) To the Washington association of sheriffs and police chiefs;

(e) To the Washington institute for public policy, research and data analysis division of the department of social and health services, higher education institutions of Washington state, Washington state health care authority, state auditor's office, caseload forecast council, office of financial management, or the

successor entities of these organizations, for the purpose of research in the public interest. Data disclosed for research purposes must comply with relevant state and federal statutes; ((or))

(f) To federal, state, or local agencies to determine eligibility for services such as medical, mental health, chemical dependency treatment, or veterans' services, and to allow for the provision of treatment to inmates during their stay or after release. Records disclosed for eligibility determination or treatment services must be held in confidence by the receiving agency, and the receiving agency must comply with all relevant state and federal statutes regarding the privacy of the disclosed records; or

(g) Upon the written permission of the person.

(3)(a) Law enforcement may use booking photographs of a person arrested or confined in a local or state penal institution to assist them in conducting investigations of crimes.

(b) Photographs and information concerning a person convicted of a sex offense as defined in RCW 9.94A.030 may be disseminated as provided in RCW 4.24.550, 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 43.43.745, 46.20.187, 70.48.470, 72.09.330, and section 401, chapter 3, Laws of 1990.

(4) Any jail that provides inmate records in accordance with subsection (2) of this section is not responsible for any unlawful secondary dissemination of the provided inmate records.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator O'Ban moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6430.

Senator O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator O'Ban that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6430.

The motion by Senator O'Ban carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6430 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6430, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6430, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Liias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Absent: Senator Habib

Excused: Senator Baumgartner

SUBSTITUTE SENATE BILL NO. 6430, as amended by the House, 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 Mullet, and without objection, Senator Habib was excused.

#### MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6605 with the following amendment(s): 6605-S.E AMH ENVI H4571.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.95.060 and 1999 c 116 s 1 are each amended to read as follows:

(1) The department shall adopt rules establishing minimum functional standards for solid waste handling, consistent with the standards specified in this section. The department may classify areas of the state with respect to population density, climate, geology, status under a quarantine as defined in RCW 17.24.007, and other relevant factors bearing on solid waste disposal standards.

(2) In addition to the minimum functional standards adopted by the department under subsection (1) of this section, each landfill facility whose area at its design capacity will exceed one hundred acres and whose horizontal height at design capacity will average one hundred feet or more above existing site elevations shall comply with the standards of this subsection. This subsection applies only to wholly new solid waste landfill facilities, no part or unit of which has had construction commence before April 27, 1999.

(a) No landfill specified in this subsection may be located:

(i) So that the active area is closer than five miles to any national park or a public or private nonprofit zoological park displaying native animals in their native habitats; or

(ii) Over a sole source aquifer designated under the federal safe drinking water act, if such designation was effective before January 1, 1999.

(b) Each landfill specified in this subsection (2) shall be constructed with an impermeable berm around the entire perimeter of the active area of the landfill of such height, thickness, and design as will be sufficient to contain all material disposed in the event of a complete failure of the structural integrity of the landfill.

Sec. 2. RCW 70.95.165 and 2015 1st sp.s. c 4 s 49 are each amended to read as follows:

(1) Each county or city siting a solid waste disposal facility shall review each potential site for conformance with the standards as set by the department for:

(a) Geology;

(b) Groundwater;

(c) Soil;

(d) Flooding;

(e) Surface water;

(f) Slope;

(g) Cover material;

(h) Capacity;

(i) Climatic factors;

(j) Land use;

(k) Toxic air emissions; and

(l) Other factors as determined by the department.

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(2) The standards in subsection (1) of this section shall be designed to use the best available technology to protect the environment and human health, and shall be revised periodically to reflect new technology and information.

(3) Each county shall establish a local solid waste advisory committee to assist in the development of programs and policies concerning solid waste handling and disposal and to review and comment upon proposed rules, policies, or ordinances prior to their adoption. Such committees shall consist of a minimum of nine members and shall represent a balance of interests including, but not limited to, citizens, public interest groups, business, the waste management industry, agriculture, and local elected public officials. The members shall be appointed by the county legislative authority. A county or city shall not apply for funds from the state and local improvements revolving account, Waste Disposal Facilities, 1980, under RCW 43.83.350, for the preparation, update, or major amendment of a comprehensive solid waste management plan unless the plan or revision has been prepared with the active assistance and participation of a local solid waste advisory committee.

NEW SECTION. Sec. 3. A new section is added to chapter 70.95 RCW to read as follows:

Upon receipt by the department of a preliminary draft plan as provided in RCW 70.95.094, the department shall immediately provide a copy of the preliminary draft plan to the department of agriculture. Within forty-five days after receiving the preliminary draft plan, the department of agriculture shall review the preliminary draft plan for compliance with chapter 17.24 RCW and the rules adopted under that chapter. The department of agriculture shall advise the local government submitting the preliminary draft plan and the department of the result of the review.

Sec. 4. RCW 70.95.180 and 1997 c 213 s 3 are each amended to read as follows:

(1) Applications for permits to operate a new or modified solid waste handling facility shall be on forms prescribed by the department and shall contain a description of the proposed facilities and operations at the site, plans and specifications for any new or additional facilities to be constructed, and such other information as the jurisdictional health department may deem necessary in order to determine whether the site and solid waste disposal facilities located thereon will comply with local regulations and state ((regulations)) rules.

(2) Upon receipt of an application for a permit to establish or modify a solid waste handling facility, the jurisdictional health department shall refer one copy of the application to the department which shall report its findings to the jurisdictional health department. When the application is for a permit to establish or modify a solid waste handling facility located in an area that is not under a quarantine, as defined in RCW 17.24.007, and when the facility will receive material for composting from an area under a quarantine, the jurisdictional health department shall also provide a copy of the application to the department of agriculture. The department of agriculture shall review the application to determine whether it contains information demonstrating that the proposed facility presents a risk of spreading disease, plant pathogens, or pests to areas that are not under a quarantine. For the purposes of this subsection, "composting" means the biological degradation and transformation of organic solid waste under controlled conditions designed to promote aerobic decomposition.

(3) The jurisdictional health department shall investigate every application as may be necessary to determine whether a proposed or modified site and facilities meet all solid waste, air, and other applicable laws and regulations, and conforms with the approved

comprehensive solid waste handling plan, and complies with all zoning requirements.

(4) When the jurisdictional health department finds that the permit should be issued, it shall issue such permit. Every application shall be approved or disapproved within ninety days after its receipt by the jurisdictional health department.

(5) The jurisdictional board of health may establish reasonable fees for permits and renewal of permits. All permit fees collected by the health department shall be deposited in the treasury and to the account from which the health department's operating expenses are paid.

Sec. 5. RCW 70.95.200 and 1969 ex.s. c 134 s 20 are each amended to read as follows:

Any permit for a solid waste disposal site issued as provided herein shall be subject to suspension at any time the jurisdictional health department determines that the site or the solid waste disposal facilities located on the site are being operated in violation of this chapter, ((or)) the regulations of the department, the rules of the department of agriculture, or local laws and regulations.

Sec. 6. RCW 70.95.300 and 1998 c 156 s 2 are each amended to read as follows:

(1) The department may by rule exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses. In adopting such rules, the department shall specify both the solid waste that is exempted from the permitting requirements and the beneficial use or uses for which the solid waste is so exempted. The department shall consider: (a) Whether the material will be beneficially used or reused; and (b) whether the beneficial use or reuse of the material will present threats to human health or the environment.

(2) The department may also exempt a solid waste from the permitting requirements of this chapter for one or more beneficial uses by approving an application for such an exemption. The department shall establish by rule procedures under which a person may apply to the department for such an exemption. The rules shall establish criteria for providing such an exemption, which shall include, but not be limited to: (a) The material will be beneficially used or reused; and (b) the beneficial use or reuse of the material will not present threats to human health or the environment. Rules adopted under this subsection shall identify the information that an application shall contain. Persons seeking such an exemption shall apply to the department under the procedures established by the rules adopted under this subsection.

(3) After receipt of an application filed under rules adopted under subsection (2) of this section, the department shall review the application to determine whether it is complete, and forward a copy of the completed application to all jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward to the department their comments and any other information they deem relevant to the department's decision to approve or disapprove the application. The department of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days of receipt. If the application is approved by the department, the solid waste is exempt from the permitting requirements of this chapter when used anywhere in the state in the manner approved by the department. If the composition, use, or reuse of the solid waste is not consistent with the terms and conditions of the department's approval of the application, the use of the solid waste remains subject to the

permitting requirements of this chapter.

(4) The department shall establish procedures by rule for providing to the public and the solid waste industry notice of and an opportunity to comment on each application for an exemption under subsection (2) of this section.

(5) Any jurisdictional health department or applicant may appeal the decision of the department to approve or disapprove an application under subsection (3) of this section. The appeal shall be made to the pollution control hearings board by filing with the hearings board a notice of appeal within thirty days of the decision of the department. The hearings board's review of the decision shall be made in accordance with chapter 43.21B RCW and any subsequent appeal of a decision of the board shall be made in accordance with RCW 43.21B.180.

(6) This section shall not be deemed to invalidate the exemptions or determinations of nonapplicability in the department's solid waste rules as they exist on June 11, 1998, which exemptions and determinations are recognized and confirmed subject to the department's continuing authority to modify or revoke those exemptions or determinations by rule.

Sec. 7. RCW 70.95.205 and 1998 c 36 s 18 are each amended to read as follows:

(1) Waste-derived soil amendments that meet the standards and criteria in this section may apply for exemption from solid waste permitting as required under RCW 70.95.170. The application shall be submitted to the department in a format determined by the department or an equivalent format. The application shall include:

(a) Analytical data showing that the waste-derived soil amendments meet standards established under RCW 15.54.800; and

(b) Other information deemed appropriate by the department to protect human health and the environment.

(2) After receipt of an application, the department shall review it to determine whether the application is complete, and forward a copy of the complete application to all interested jurisdictional health departments and the department of agriculture for review and comment. Within forty-five days, the jurisdictional health departments and the department of agriculture shall forward their comments and any other information they deem relevant to the department, which shall then give final approval or disapproval of the application. The department of agriculture's comments must be limited to addressing whether approving the application risks spreading disease, plant pathogens, or pests to areas that are not under a quarantine, as defined in RCW 17.24.007. Every complete application shall be approved or disapproved by the department within ninety days after receipt.

(3) The department, after providing opportunity for comments from the jurisdictional health departments and the department of agriculture, may at any time revoke an exemption granted under this section if the quality or use of the waste-derived soil amendment changes or the management, storage, or end use of the waste-derived soil amendment constitutes a threat to human health or the environment.

(4) Any aggrieved party may appeal the determination by the department in subsection (2) or (3) of this section to the pollution control hearings board.

Sec. 8. RCW 70.95.315 and 2009 c 178 s 5 are each amended to read as follows:

(1) The department may assess a civil penalty in an amount not to exceed one thousand dollars per day per violation to any person exempt from solid waste permitting in accordance with RCW 70.95.205, 70.95.300, 70.95.305, 70.95.306, or 70.95.330 who fails to comply with the terms and conditions of the exemption. Each such violation shall be a separate and distinct offense, and in the case of a continuing violation, each day's continuance shall

be a separate and distinct violation. The penalty provided in this section shall be imposed pursuant to RCW 43.21B.300.

(2) If a person violates a provision of any of the sections referenced in subsection (1) of this section, the department may issue an appropriate order to ensure compliance with the conditions of the exemption. The order may be appealed pursuant to RCW 43.21B.310."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Warnick moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6605.

Senator Warnick spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Warnick that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6605.

The motion by Senator Warnick carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6605 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6605, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6605, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Danel, Darneille, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senators Baumgartner and Habib

ENGROSSED SUBSTITUTE SENATE BILL NO. 6605, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 4, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6558 with the following amendment(s): 6558-S AMH HCW H4592.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.64 RCW to read as follows:

The intent of this legislation is to make clear the legislature's directive to the commission to allow hospital pharmacy licenses to include individual practitioner offices and multipractitioner clinics owned, operated, or under common control with a hospital and that such offices and clinics are regulated, inspected, and investigated according to the level of service provided. While legislation providing for such a system was enacted in 2015, it has yet to be implemented. The legislature wishes to specify a clear

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timeline for implementation.

Sec. 2. RCW 18.64.043 and 2015 c 234 s 4 are each amended to read as follows:

(1) The owner of each pharmacy shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve, for the period ending on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, and each such owner shall at the time of filing proof of payment of such fee as provided in RCW 18.64.045 as now or hereafter amended, file with the ((department)) commission on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein.

(2)(a) For a hospital licensed under chapter 70.41 RCW, the license of location provided under this section may include any individual practitioner's office or multipractitioner clinic owned ((and)), operated ((by)), or under common control with a hospital, and identified by the hospital on the pharmacy application or renewal. ((A hospital that elects to include one or more offices or clinics under this subsection on its pharmacy application must maintain the office or clinic under its pharmacy license through at least one pharmacy inspection or twenty-four months. However, the department may, in its discretion, allow a change in licensure at an earlier time.)) The definition of "hospital" under RCW 70.41.020 to exclude "clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more," does not limit the ability of a hospital to include individual practitioner's offices or multipractitioner clinics owned, operated, or under common control with a hospital on the pharmacy application or renewal or otherwise prevent the implementation of this act. A hospital that elects to include one or more offices or clinics under this subsection on its hospital pharmacy application shall describe the type of services relevant to the practice of pharmacy provided at each such office or clinic as requested by the commission. Any updates to the application, renewal, or related forms that are necessary to accomplish the provision of this licensure option must be made no later than ninety days after the effective date of this section. Nothing in this section limits the ability of a hospital to transfer drugs to another location consistent with federal laws and RCW 70.41.490, regardless of whether or not an election has been made with respect to adding the receiving location to the hospital's pharmacy license under this section.

(b) This chapter must be interpreted in a manner that supports regulatory, inspection, and investigation standards that are reasonable and appropriate based on the level of risk and the type of services provided in a pharmacy, including pharmacy services provided in a hospital and pharmacy services provided in an individual practitioner office or multipractitioner clinic owned, operated, or under common control with a hospital regardless of the office or clinic's physical address. The commission shall provide clear and specific information regarding the standards to which particular pharmacy services will be held, as appropriate, based on the type of pharmacy service provided at a particular location.

(c) The secretary may adopt rules to establish an additional reasonable fee for any such office or clinic.

((2)) (3) It shall be the duty of the owner to immediately notify the ((department)) commission of any change of location

((or)), ownership, or licensure and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

((3)) (4) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

((4)) (5) In the event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(6) If the commission determines that rules are necessary for the immediate implementation of the inspection standards described in this section, it must adopt rules under the emergency rule-making process in RCW 34.05.350, with such emergency rules effective not later than ninety days after the effective date of this section. The commission shall then begin the process to adopt any necessary permanent rules in accordance with chapter 34.05 RCW. The commission shall ensure that during the transition to the permanent rules adopted under this section, an emergency rule remains in effect without a break between the original emergency rule and any subsequent emergency rules that may be necessary. The commission shall ensure that during the transition to permanent rules there is no interruption in provision of the licensure option described under this section."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Parlette moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6558.

Senator Parlette spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Parlette that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6558.

The motion by Senator Parlette carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6558 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6558, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6558, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senators Baumgartner and Habib

SUBSTITUTE SENATE BILL NO. 6558, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 2, 2016

MR. PRESIDENT:

The House passed SENATE BILL NO. 6459 with the following amendment(s): 6459 AMH PS H4548.10.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 9.94A RCW to read as follows:

(1) Any peace officer has authority to assist the department with the supervisions of offenders.

(2) If a peace officer has reasonable cause to believe an offender is in violation of the terms of supervision, the peace officer may conduct a search as provided under RCW 9.94A.631, of the offender's person, automobile, or other personal property to search for evidence of the violation. A peace officer may assist a community corrections officer with a search of the offender's residence if requested to do so by the community corrections officer.

(3) Nothing in this section prevents a peace officer from arresting an offender for any new crime found as a result of the offender's arrest or search authorized by this section.

(4) Upon substantiation of a violation of the offender's conditions of community supervision, utilizing existing methods and systems, the peace officer should notify the department of the violation.

(5) For the purposes of this section, "peace officer" refers to a limited or general authority Washington peace officer as defined in RCW 10.93.020."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Padden moved that the Senate concur in the House amendment(s) to Senate Bill No. 6459.

Senator Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Padden that the Senate concur in the House amendment(s) to Senate Bill No. 6459.

The motion by Senator Padden carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6459 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6459, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6459, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Erickson, Fain, Fraser, Frockt, Hargrove, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Liias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Voting nay: Senators Darneille and Hasegawa

Excused: Senators Baumgartner and Habib

SENATE BILL NO. 6459, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 3, 2016

MR. PRESIDENT:

The House passed SENATE BILL NO. 6614 with the following amendment(s): 6614 AMH TR H4649.10.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.01.071 and 2007 c 516 s 4 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate, the policies shall provide for the use of integrated, intermodal transportation systems. The policies must be aligned with the goals established in RCW 47.04.280. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature; and

(d) Integrate the statewide transportation plan with the needs of the elderly and persons with disabilities, and coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(4) By December 2010, to prepare a comprehensive and balanced statewide transportation plan consistent with the state's growth management goals and based on the transportation policy goals provided under RCW 47.04.280 and applicable state and federal laws. The plan must reflect the priorities of government developed by the office of financial management and address regional needs, including multimodal transportation planning. The plan must, at a minimum: (a) Establish a vision for the development of the statewide transportation system; (b) identify significant statewide transportation policy issues; and (c) recommend statewide transportation policies and strategies to the legislature to fulfill the requirements of subsection (1) of this section. The plan must be the product of an ongoing process that involves representatives of significant transportation interests and the general public from across the state. Every four years, the plan shall be reviewed and revised, and submitted to the governor and

the house of representatives and senate standing committees on transportation.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(5) ((By December 2007, the office of financial management shall submit a baseline report on the progress toward attaining the policy goals under RCW 47.04.280 in the 2005-2007 fiscal biennium. By October 1, 2008, beginning with the development of the 2009-2011 biennial transportation budget, and by October 1st biennially thereafter, the office of financial management shall submit to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established under RCW 47.04.280, as measured by the objectives and performance measures established by the office of financial management under RCW 47.04.280;

((6))) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

((7))) (6) To adopt such rules as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

((8))) (7) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

((9))) (8) To conduct transportation-related studies and policy analysis to the extent directed by the legislature or governor in the biennial transportation budget act, or as otherwise provided in law, and subject to the availability of amounts appropriated for this specific purpose; and

((10))) (9) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

NEW SECTION. Sec. 2. A new section is added to chapter 47.04 RCW to read as follows:

By October 1, 2016, and by October 1st biennially thereafter, the office of financial management shall review and comment prior to the department of transportation submitting to the legislature and the governor a report on the progress toward the attainment by state transportation agencies of the state transportation policy goals and objectives prescribed by statute, appropriation, and governor directive. The report must, at a minimum, include the degree to which state transportation programs have progressed toward the attainment of the policy goals established under RCW 47.04.280, as measured by the objectives and performance measures established under RCW 47.04.280.

Sec. 3. RCW 47.04.280 and 2015 3rd sp.s. c 16 s 1 and 2015 3rd sp.s. c 1 s 304 are each reenacted and amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

(a) Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of

people and goods to ensure a prosperous economy;

(b) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(c) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(d) Mobility: To improve the predictable movement of goods and people throughout Washington state, including congestion relief and improved freight mobility;

(e) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(f) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(4) It is the intent of the legislature that the ((department of transportation establish)) office of financial management, in consultation with the transportation commission, establish objectives and performance measures for the department and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The ((department of transportation)) office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) A local or regional agency engaging in transportation planning may voluntarily establish objectives and performance measures to demonstrate progress toward the attainment of the policy goals set forth in subsection (1) of this section or any other transportation policy goals established by the local or regional agency. A local or regional agency engaging in transportation planning is encouraged to provide local and regional objectives and performance measures to be included with the objectives and performance measures submitted to the legislature pursuant to subsection (4) of this section.

(6) This section does not create a private right of action.

Sec. 4. RCW 47.64.360 and 2015 3rd sp.s. c 1 s 306 are each amended to read as follows:

(1) The department of transportation shall complete a government management and accountability performance report that provides a baseline assessment of current performance on the performance measures identified in RCW 47.64.355 using final 2009-2011 data. This report must be presented to the legislature by November 1, 2011, through the attainment report required in ((RCW 47.01.071(5))) section 2 of this act and RCW 47.04.280.

(2) By December 31, 2012, and each year thereafter, the department of transportation shall complete a performance report for the prior fiscal year. This report must be reviewed by the office of financial management, which must provide comment on the report, and the joint transportation committee, prior to submitting the report to the legislature and governor.

(3) Management shall lead implementation of the performance measures in RCW 47.64.355."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Senate Bill No. 6614.

Senator Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Senate Bill No. 6614.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6614 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6614, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6614, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Liias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

Excused: Senators Baumgartner and Habib

SENATE BILL NO. 6614, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 2, 2016

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6536 with the following amendment(s): 6536-S AMH CODY H4653.1 0.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to enhance competition among all health carriers and limited health care service contractors by having the office of the insurance commissioner establish regulatory uniformity for the rate and form filing process and the rate and form filing content and regulatory review standards for group health benefit plans other than small group health benefit plans, as well as all stand-alone dental plans and all stand-alone vision plans.

Sec. 2. RCW 48.43.733 and 2015 c 19 s 3 are each amended to read as follows:

(1) All rates and forms of group health benefit plans other than small group plans, and all stand-alone dental and all stand-alone vision plans offered by a health carrier or limited health care service contractor as defined in RCW 48.44.035 and modification of a contract form or rate must be filed before the contract form is offered for sale to the public and before the rate schedule is used.

(2) Filings of negotiated health benefit plans, stand-alone dental, and stand-alone vision contract forms for groups other than small groups, and applicable rate schedules, that are placed into effect at time of negotiation or that have a retroactive effective date are not required to be filed in accordance with

subsection (1) of this section, but must be filed within thirty working days after the earlier of:

(a) The date group contract negotiations are completed; or

(b) The date renewal premiums are implemented.

(3) For purposes of this section, a negotiated contract form is a health benefit plan, stand-alone dental plan, or stand-alone vision plan where benefits, and other terms and conditions, including the applicable rate schedules are negotiated and agreed to by the carrier or limited health care service contractor and the policy or contract holder. The negotiated policy form and associated rate schedule must otherwise comply with state and federal laws governing the content and schedule of rates for the negotiated plans.

(4) Stand-alone dental and stand-alone vision plans offered by a disability insurer to out-of-state groups specified by RCW 48.21.010(2) may be negotiated, but may not be offered in this state before the commissioner finds that the stand-alone dental or stand-alone vision plan otherwise ((meet)) meets the standards set forth in RCW 48.21.010(2) (a) and (b).

(5) The commissioner may, subject to a carrier's or limited health care service contractor's right to demand and receive a hearing under chapters 48.04 and 34.05 RCW, disapprove filings submitted under this section, as permitted under RCW 48.18.110, 48.44.020, and 48.46.060.

(6) The commissioner shall ((adopt)) amend existing rules to standardize the rate and form filing ((requirements)) process as well as regulatory review standards for the rates and forms of the plans submitted under this section. ((In developing rules to implement this section,)) The commissioner ((must use the already adopted standards in place for)) may amend the rules previously adopted under RCW 48.43.733 and shall amend any additional rating requirements established by existing rule, that are not applied to health care service contractors and health maintenance organizations.

(7) The requirements of this section apply to all group health benefit plans other than small group plans, all stand-alone dental plans, and all stand-alone vision plans issued or renewed on or after ((January 1, 2016)) the effective date of this act.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

BERNARD DEAN, Deputy Chief Clerk

#### MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6536.

Senator Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6536.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6536 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6536, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6536, as amended by the House, and the bill

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passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Voting yea: Senators Angel, Bailey, Becker, Benton, Billig, Braun, Brown, Carlyle, Chase, Cleveland, Conway, Dammeier, Dansel, Darneille, Ericksen, Fain, Fraser, Frockt, Hargrove, Hasegawa, Hewitt, Hill, Hobbs, Honeyford, Jayapal, Keiser, King, Lias, Litzow, McAuliffe, McCoy, Miloscia, Mullet, Nelson, O'Ban, Padden, Parlette, Pearson, Pedersen, Ranker, Rivers, Roach, Rolfes, Schoesler, Sheldon, Takko and Warnick

MOTION

At 4:50 p.m., on motion of Senator Fain, the Senate adjourned until 10:00 o'clock a.m., Tuesday, March 8, 2016.

Excused: Senators Baumgartner and Habib

BRAD OWEN, President of the Senate

SUBSTITUTE SENATE BILL NO. 6536, as amended by the House, having received the constitutional majority, was declared

HUNTER G. GOODMAN, Secretary of the Senate

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