

SIXTY EIGHTH LEGISLATURE - REGULAR SESSION

NINETY FIFTH DAY

House Chamber, Olympia, Thursday, April 13, 2023

The House was called to order at 1:00 p.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Shriya Sundar and Jonah Fox. The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Greg Appleby, Leavenworth Church of the Nazarene.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

**SPEAKER'S PRIVILEGE**

The Speaker (Representative Orwall presiding) was pleased to recognize Principal Michele Appleby and students from the Upper Valley Christian School in the 12th Legislative District and asked them to stand and be recognized.

**RESOLUTION**

**HOUSE RESOLUTION NO. 2023-4643**, by Representatives Mosbrucker, Ryu, Thai, Hutchins, Leavitt, Gregerson, Eslick, Goehner, Orwall, Reeves, Timmons, Sandlin, Walen, Duerr, Berry, Pollet, McClintock, and Ybarra

WHEREAS, The people of Washington state share a rich cultural history and a strong bond with our global neighbors in Taiwan; and

WHEREAS, Taiwanese Americans have profoundly impacted our state and continue to further the democratic values that define Washington state as an international beacon of opportunity and prosperity; and

WHEREAS, Washingtonians recognize the generations of resilience, sacrifice, and hope demonstrated by Taiwanese immigrants and their descendants in their innumerable contributions to our communities; and

WHEREAS, Washington state enjoys a more vibrant heritage and economy from the bilateral cultivation of these deep ties with Taiwan; and

WHEREAS, The investment of Taiwanese companies in Washington state has produced abundant growth in trade and jobs in the agriculture, manufacturing, and technology sectors; and

WHEREAS, Taiwanese companies have invested in Washington state's workforce, helping to create more than 15,000 skilled labor jobs in industries ranging from semiconductor technology, airlines, and harbor shipping to the development and manufacture of high quality fiber optic components and video microscopes;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives recognize the mutual friendship, history, and successes shared between the people of Washington state and the people of Taiwan and hereby honor the past, present, and ongoing nature of this valued partnership.

There being no objection, HOUSE RESOLUTION NO. 4643 was adopted.

The Speaker (Representative Orwall presiding) called upon Representative Bronoske to preside.

There being no objection, the House advanced to the third order of business.

**MESSAGES FROM THE SENATE**

Wednesday, April 12, 2023

Mme. Speaker:

The Senate has passed:

- HOUSE BILL NO. 1008
- HOUSE BILL NO. 1055
- HOUSE BILL NO. 1128
- HOUSE BILL NO. 1197
- HOUSE BILL NO. 1218
- SUBSTITUTE HOUSE BILL NO. 1234
- SUBSTITUTE HOUSE BILL NO. 1236
- SUBSTITUTE HOUSE BILL NO. 1247
- HOUSE BILL NO. 1262
- HOUSE BILL NO. 1416
- SECOND SUBSTITUTE HOUSE BILL NO. 1452
- SUBSTITUTE HOUSE BILL NO. 1457
- HOUSE BILL NO. 1563
- HOUSE BILL NO. 1626
- HOUSE BILL NO. 1679
- HOUSE BILL NO. 1695
- HOUSE BILL NO. 1750

and the same are herewith transmitted.

Colleen Rust, Deputy Secretary

Wednesday, April 12, 2023

Mme. Speaker:

The President has signed:

- SECOND SUBSTITUTE SENATE BILL NO. 5046
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5124
- SUBSTITUTE SENATE BILL NO. 5127
- SUBSTITUTE SENATE BILL NO. 5145
- SENATE BILL NO. 5155
- SECOND SUBSTITUTE SENATE BILL NO. 5225
- SUBSTITUTE SENATE BILL NO. 5261
- ENGROSSED SENATE BILL NO. 5341
- SUBSTITUTE SENATE BILL NO. 5353
- SUBSTITUTE SENATE BILL NO. 5374
- SUBSTITUTE SENATE BILL NO. 5381
- SUBSTITUTE SENATE BILL NO. 5433
- SENATE BILL NO. 5457
- SENATE BILL NO. 5459
- ENGROSSED SENATE BILL NO. 5534
- SENATE BILL NO. 5550
- SUBSTITUTE SENATE BILL NO. 5561
- ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5634

and the same are herewith transmitted.

Sarah Bannister, Secretary

There being no objection, the House advanced to the seventh order of business.

**THIRD READING**

## MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1002, with the following amendment(s): 1002 AMS LAW S2365.3

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.10.901 and 1993 c 514 s 2 are each amended to read as follows:

(1) No student, or other person in attendance at any public or private institution of higher education, or any other postsecondary educational institution, may ~~((conspire to engage in hazing or participate in hazing of))~~ intentionally haze another.

(2) ~~((A))~~ (a) Except as provided in (b) of this subsection, a violation of subsection (1) of this section is a gross misdemeanor, punishable as provided under RCW 9A.20.021.

(b) A violation of subsection (1) of this section that causes substantial bodily harm, as defined in RCW 9A.04.110, to another person is a class C felony.

(3) Any student organization, association, or student living group that ~~((knowingly))~~ permits hazing is strictly liable for ~~((harm))~~ damages caused to persons or property resulting from hazing. If the student organization, association, or student living group is a corporation whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

Sec. 2. RCW 9.94A.411 and 2021 c 215 s 98 are each amended to read as follows:

(1) Decision not to prosecute.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

GUIDELINE/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not

the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

(a) STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid pre-filing agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.670.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS

- Aggravated Murder (RCW 10.95.020)
- 1st Degree Murder (RCW 9A.32.030)
- 2nd Degree Murder (RCW 9A.32.050)
- 1st Degree Manslaughter (RCW 9A.32.060)
- 2nd Degree Manslaughter (RCW 9A.32.070)
- 1st Degree Kidnapping (RCW 9A.40.020)
- 2nd Degree Kidnapping (RCW 9A.40.030)
- 1st Degree Assault (RCW 9A.36.011)
- 2nd Degree Assault (RCW 9A.36.021)
- 3rd Degree Assault (RCW 9A.36.031)
- 4th Degree Assault (if a violation of RCW 9A.36.041(3))
  - 1st Degree Assault of a Child (RCW 9A.36.120)
  - 2nd Degree Assault of a Child (RCW 9A.36.130)
  - 3rd Degree Assault of a Child (RCW 9A.36.140)
- 1st Degree Rape (RCW 9A.44.040)
- 2nd Degree Rape (RCW 9A.44.050)
- 3rd Degree Rape (RCW 9A.44.060)
- 1st Degree Rape of a Child (RCW 9A.44.073)
- 2nd Degree Rape of a Child (RCW 9A.44.076)
- 3rd Degree Rape of a Child (RCW 9A.44.079)
- 1st Degree Robbery (RCW 9A.56.200)
- 2nd Degree Robbery (RCW 9A.56.210)
- 1st Degree Arson (RCW 9A.48.020)
- 1st Degree Burglary (RCW 9A.52.020)
- 1st Degree Identity Theft (RCW 9.35.020(2))
- 2nd Degree Identity Theft (RCW 9.35.020(3))

- 1st Degree Extortion (RCW 9A.56.120)
  - 2nd Degree Extortion (RCW 9A.56.130)
  - 1st Degree Criminal Mistreatment (RCW 9A.42.020)
  - 2nd Degree Criminal Mistreatment (RCW 9A.42.030)
  - 1st Degree Theft from a Vulnerable Adult (RCW 9A.56.400(1))
  - 2nd Degree Theft from a Vulnerable Adult (RCW 9A.56.400(2))
  - Indecent Liberties (RCW 9A.44.100)
  - Incest (RCW 9A.64.020)
  - Vehicular Homicide (RCW 46.61.520)
  - Vehicular Assault (RCW 46.61.522)
  - 1st Degree Child Molestation (RCW 9A.44.083)
  - 2nd Degree Child Molestation (RCW 9A.44.086)
  - 3rd Degree Child Molestation (RCW 9A.44.089)
  - 1st Degree Promoting Prostitution (RCW 9A.88.070)
  - Intimidating a Juror (RCW 9A.72.130)
  - Communication with a Minor (RCW 9.68A.090)
  - Intimidating a Witness (RCW 9A.72.110)
  - Intimidating a Public Servant (RCW 9A.76.180)
  - Bomb Threat (if against person) (RCW 9.61.160)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Promoting a Suicide Attempt (RCW 9A.36.060)
  - Criminal Mischief (if against person) (RCW 9A.84.010)
  - Stalking (RCW 9A.46.110)
  - Custodial Assault (RCW 9A.36.100)
  - Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, ~~((26.10.220,))~~ 26.26B.050, or 26.52.070, or any of the former RCW 26.50.110 and 74.34.145)
  - Counterfeiting (if a violation of RCW 9.16.035(4))
  - Felony Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
  - Felony Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))
  - Felony Hazing (RCW 28B.10.901(2)(b))
- CRIMES AGAINST PROPERTY/OTHER CRIMES
- 2nd Degree Arson (RCW 9A.48.030)
  - 1st Degree Escape (RCW 9A.76.110)
  - 2nd Degree Escape (RCW 9A.76.120)
  - 2nd Degree Burglary (RCW 9A.52.030)
  - 1st Degree Theft (RCW 9A.56.030)
  - 2nd Degree Theft (RCW 9A.56.040)
  - 1st Degree Perjury (RCW 9A.72.020)
  - 2nd Degree Perjury (RCW 9A.72.030)
  - 1st Degree Introducing Contraband (RCW 9A.76.140)
  - 2nd Degree Introducing Contraband (RCW 9A.76.150)
  - 1st Degree Possession of Stolen Property (RCW 9A.56.150)
  - 2nd Degree Possession of Stolen Property (RCW 9A.56.160)
  - Bribery (RCW 9A.68.010)
  - Bribing a Witness (RCW 9A.72.090)
  - Bribe received by a Witness (RCW 9A.72.100)
  - Bomb Threat (if against property) (RCW 9.61.160)

1st Degree Malicious Mischief (RCW 9A.48.070)  
 2nd Degree Malicious Mischief (RCW 9A.48.080)  
 1st Degree Reckless Burning (RCW 9A.48.040)  
 Taking a Motor Vehicle without Authorization (RCW 9A.56.070 and 9A.56.075)  
 Forgery (RCW 9A.60.020)  
 2nd Degree Promoting Prostitution (RCW 9A.88.080)  
 Tampering with a Witness (RCW 9A.72.120)  
 Trading in Public Office (RCW 9A.68.040)  
 Trading in Special Influence (RCW 9A.68.050)  
 Receiving/Granting Unlawful Compensation (RCW 9A.68.030)  
 Bigamy (RCW 9A.64.010)  
 Eluding a Pursuing Police Vehicle (RCW 46.61.024)  
 Willful Failure to Return from Furlough  
 Escape from Community Custody  
 Criminal Mischief (if against property) (RCW 9A.84.010)  
 1st Degree Theft of Livestock (RCW 9A.56.080)  
 2nd Degree Theft of Livestock (RCW 9A.56.083)

ALL OTHER UNCLASSIFIED FELONIES

Selection of Charges/Degree of Charge

(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

(A) Will significantly enhance the strength of the state's case at trial; or

(B) Will result in restitution to all victims.

(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(A) Charging a higher degree;

(B) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(b) GUIDELINES/COMMENTARY:

(i) Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

(A) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;

(B) The completion of necessary laboratory tests; and

(C) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a

decision to prosecute is made, and specify what the investigation needs to include.

(ii) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(A) Probable cause exists to believe the suspect is guilty; and

(B) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(C) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(iii) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(A) Polygraph testing;

(B) Hypnosis;

(C) Electronic surveillance;

(D) Use of informants.

(iv) Prefiling Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(v) Prefiling Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions.

**Sec. 3.** RCW 9.94A.515 and 2022 c 231 s 13 are each amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XII	Malicious explosion 2 (RCW 70.74.280(2))
I	

	Malicious placement of an explosive 1 (RCW 70.74.270(1))		intoxicating liquor or any drug (RCW 79A.60.050)
XII	Assault 1 (RCW 9A.36.011)		Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
	Assault of a Child 1 (RCW 9A.36.120)		Malicious placement of an explosive 2 (RCW 70.74.270(2))
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))		Robbery 1 (RCW 9A.56.200)
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)		Sexual Exploitation (RCW 9.68A.040)
	Rape 1 (RCW 9A.44.040)	VII	Arson 1 (RCW 9A.48.020)
	Rape of a Child 1 (RCW 9A.44.073)	I	Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
	Trafficking 2 (RCW 9A.40.100(3))		Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
XI	Manslaughter 1 (RCW 9A.32.060)		Manslaughter 2 (RCW 9A.32.070)
	Rape 2 (RCW 9A.44.050)		Promoting Prostitution 1 (RCW 9A.88.070)
	Rape of a Child 2 (RCW 9A.44.076)		Theft of Ammonia (RCW 69.55.010)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)	VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)		Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
X	Child Molestation 1 (RCW 9A.44.083)		Burglary 1 (RCW 9A.52.020)
	Criminal Mistreatment 1 (RCW 9A.42.020)		Child Molestation 2 (RCW 9A.44.086)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))		Civil Disorder Training (RCW 9A.48.120)
	Kidnapping 1 (RCW 9A.40.020)		Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
	Leading Organized Crime (RCW 9A.82.060(1)(a))		Drive-by Shooting (RCW 9A.36.045)
	Malicious explosion 3 (RCW 70.74.280(3))		False Reporting 1 (RCW 9A.84.040(2)(a))
	Sexually Violent Predator Escape (RCW 9A.76.115)		Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)		Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
	Assault of a Child 2 (RCW 9A.36.130)		Introducing Contraband 1 (RCW 9A.76.140)
	Explosive devices prohibited (RCW 70.74.180)		
	Hit and Run—Death (RCW 46.52.020(4)(a))		
	Homicide by Watercraft, by being under the influence of		

Malicious placement of an explosive 3 (RCW 70.74.270(3))	Unlawful Storage of Ammonia (RCW 69.55.020)
Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))	V Abandonment of Dependent Person 2 (RCW 9A.42.070)
Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)	Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))	Air bag diagnostic systems (RCW 46.37.660(2)(c))
Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))	Air bag replacement requirements (RCW 46.37.660(1)(c))
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))	Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)	Child Molestation 3 (RCW 9A.44.089)
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)	Criminal Mistreatment 2 (RCW 9A.42.030)
VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))	Custodial Sexual Misconduct 1 (RCW 9A.44.160)
Bribery (RCW 9A.68.010)	Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
Incest 1 (RCW 9A.64.020(1))	Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, <del>(26.10.220)</del> , 26.26B.050, <del>(26.50.110)</del> ) or 26.52.070( <del>(, _____ or 74.34.145)</del> )
Intimidating a Judge (RCW 9A.72.160)	Extortion 1 (RCW 9A.56.120)
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)	Extortionate Extension of Credit (RCW 9A.82.020)
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))	Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))	Incest 2 (RCW 9A.64.020(2))
Rape of a Child 3 (RCW 9A.44.079)	Kidnapping 2 (RCW 9A.40.030)
Theft of a Firearm (RCW 9A.56.300)	Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))	Perjury 1 (RCW 9A.72.020)
	Persistent prison misbehavior (RCW 9.94.070)
	Possession of a Stolen Firearm (RCW 9A.56.310)
	Rape 3 (RCW 9A.44.060)

Rendering Assistance 1 (RCW 9A.76.070)	Criminal (RCW 9A.76.070)	Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)
Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))		Influencing Outcome of Sporting Event (RCW 9A.82.070)
Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))		Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
Sexual Misconduct with a Minor 1 (RCW 9A.44.093)		Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))
Sexually Violating Human Remains (RCW 9A.44.105)		Residential Burglary (RCW 9A.52.025)
Stalking (RCW 9A.46.110)		Robbery 2 (RCW 9A.56.210)
Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)		Theft of Livestock 1 (RCW 9A.56.080)
IV Arson 2 (RCW 9A.48.030)		Threats to Bomb (RCW 9.61.160)
Assault 2 (RCW 9A.36.021)		Trafficking in Stolen Property 1 (RCW 9A.82.050)
Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))		Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))		Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
Assault by Watercraft (RCW 79A.60.060)		Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)		Unlawful transaction of insurance business (RCW 48.15.023(3))
Cheating 1 (RCW 9.46.1961)		Unlicensed practice as an insurance professional (RCW 48.17.063(2))
Commercial Bribery (RCW 9A.68.060)		Use of Proceeds of Criminal Profiteering (RCW 9A.82.080(1) and (2))
Counterfeiting (RCW 9.16.035(4))		Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))
Driving While Under the Influence (RCW 46.61.502(6))		Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
Endangerment with a Controlled Substance (RCW 9A.42.100)		
Escape 1 (RCW 9A.76.110)		
Hate Crime (RCW 9A.36.080)		
Hit and Run—Injury (RCW 46.52.020(4)(b))		
Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))		
Identity Theft 1 (RCW 9.35.020(2))		

Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))	Organized Retail Theft 1 (RCW 9A.56.350(2))
<del>((Willful Failure to Return from Furlough (RCW 72.66.060)))</del>	Perjury 2 (RCW 9A.72.030)
III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))	Possession of Incendiary Device (RCW 9.40.120)
Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))	Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Assault of a Child 3 (RCW 9A.36.140)	Promoting Prostitution 2 (RCW 9A.88.080)
Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))	Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))
Burglary 2 (RCW 9A.52.030)	Securities Act violation (RCW 21.20.400)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)	Tampering with a Witness (RCW 9A.72.120)
Criminal Gang Intimidation (RCW 9A.46.120)	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
Custodial Assault (RCW 9A.36.100)	Theft of Livestock 2 (RCW 9A.56.083)
Cyber Harassment (RCW 9A.90.120(2)(b))	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
Escape 2 (RCW 9A.76.120)	Trafficking in Stolen Property 2 (RCW 9A.82.055)
Extortion 2 (RCW 9A.56.130)	Unlawful Hunting of Big Game 1 (RCW 77.15.410(3) (b))
False Reporting 2 (RCW 9A.84.040(2)(b))	Unlawful Imprisonment (RCW 9A.40.040)
Harassment (RCW 9A.46.020)	Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
<u>Hazing (RCW 28B.10.901(2) (b))</u>	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Intimidating a Public Servant (RCW 9A.76.180)	Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
Introducing Contraband 2 (RCW 9A.76.150)	Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
Malicious Injury to Railroad Property (RCW 81.60.070)	Unlawful Use of a Nondesigned Vessel (RCW 77.15.530(4))
Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)	Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)	
Mortgage Fraud (RCW 19.144.080)	
Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)	



	<del>((Willful Failure to Return from Work Release (RCW 72.65.070)))</del>		at \$5,000 or more) (RCW 9A.56.096(5) (a))
II	Commercial Fishing Without a License 1 (RCW 77.15.500(3) (b))		Theft with the Intent to Resell 2 (RCW 9A.56.340(3))
	Computer Trespass 1 (RCW 9A.90.040)		Trafficking in Insurance Claims (RCW 48.30A.015)
	Counterfeiting (RCW 9.16.035(3))		Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4) (a))
	Electronic Data Service Interference (RCW 9A.90.060)		Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))
	Electronic Data Tampering 1 (RCW 9A.90.080)		Unlawful Practice of Law (RCW 2.48.180)
	Electronic Data Theft (RCW 9A.90.100)		Unlawful Purchase or Use of a License (RCW 77.15.650(3) (b))
	Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))		Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3) (a))
	Escape from Community Custody (RCW 72.09.310)		Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
	Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)		Voyeurism 1 (RCW 9A.44.115)
	Health Care False Claims (RCW 48.80.030)	I	Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
	Identity Theft 2 (RCW 9.35.020(3))		False Verification for Welfare (RCW 74.08.055)
	Improperly Obtaining Financial Information (RCW 9.35.010)		Forgery (RCW 9A.60.020)
	Malicious Mischief 1 (RCW 9A.48.070)		Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
	Organized Retail Theft 2 (RCW 9A.56.350(3))		Malicious Mischief 2 (RCW 9A.48.080)
	Possession of Stolen Property 1 (RCW 9A.56.150)		Mineral Trespass (RCW 78.44.330)
	Possession of a Stolen Vehicle (RCW 9A.56.068)		Possession of Stolen Property 2 (RCW 9A.56.160)
	Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))		Reckless Burning 1 (RCW 9A.48.040)
	Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)		Spotlighting Big Game 1 (RCW 77.15.450(3) (b))
	Theft 1 (RCW 9A.56.030)		Suspension of Department Privileges 1 (RCW 77.15.670(3) (b))
	Theft of a Motor Vehicle (RCW 9A.56.065)		Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
	Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued		Theft 2 (RCW 9A.56.040)
			Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$750 or more but less than \$5,000) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)

Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

~~((Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))))~~

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

(3) Telephone harassment (RCW 9.61.230);

(4) Assault in the first degree (RCW 9A.36.011);

(5) Assault of a child in the first degree (RCW 9A.36.120);

(6) Assault in the second degree (RCW 9A.36.021);

(7) Assault of a child in the second degree (RCW 9A.36.130);

(8) Assault in the fourth degree (RCW 9A.36.041);

(9) Reckless endangerment (RCW 9A.36.050);

(10) Extortion in the first degree (RCW 9A.56.120);

(11) Extortion in the second degree (RCW 9A.56.130);

(12) Coercion (RCW 9A.36.070);

(13) Burglary in the first degree (RCW 9A.52.020);

(14) Burglary in the second degree (RCW 9A.52.030);

(15) Criminal trespass in the first degree (RCW 9A.52.070);

(16) Criminal trespass in the second degree (RCW 9A.52.080);

(17) Malicious mischief in the first degree (RCW 9A.48.070);

(18) Malicious mischief in the second degree (RCW 9A.48.080);

(19) Malicious mischief in the third degree (RCW 9A.48.090);

(20) Kidnapping in the first degree (RCW 9A.40.020);

(21) Kidnapping in the second degree (RCW 9A.40.030);

(22) Unlawful imprisonment (RCW 9A.40.040);

(23) Rape in the first degree (RCW 9A.44.040);

(24) Rape in the second degree (RCW 9A.44.050);

(25) Rape in the third degree (RCW 9A.44.060);

(26) Indecent liberties (RCW 9A.44.100);

(27) Rape of a child in the first degree (RCW 9A.44.073);

(28) Rape of a child in the second degree (RCW 9A.44.076);

(29) Rape of a child in the third degree (RCW 9A.44.079);

(30) Child molestation in the first degree (RCW 9A.44.083);

(31) Child molestation in the second degree (RCW 9A.44.086);

(32) Child molestation in the third degree (RCW 9A.44.089);

(33) Stalking (RCW 9A.46.110);

(34) Cyber harassment (RCW 9A.90.120);

(35) Residential burglary (RCW 9A.52.025);

(36) Violation of a temporary, permanent, or final protective order issued pursuant to chapter 9A.44, 9A.46, 10.99, or 26.09 RCW or any of the former chapters 7.90, 10.14, and 26.50 RCW, or violation of a domestic violence protection order, sexual assault protection order, or antiharassment protection order issued under chapter 7.105 RCW;

(37) Unlawful discharge of a laser in the first degree (RCW 9A.49.020); ~~((and))~~

(38) Unlawful discharge of a laser in the second degree (RCW 9A.49.030); and

(39) Felony hazing (RCW 28B.10.901(2)(b)).

**Sec. 4.** RCW 9A.46.060 and 2022 c 231 s 15 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) Hate crime (RCW 9A.36.080);

NEW SECTION. **Sec. 5.** This act may be known and cited as the Sam Martinez stop hazing law."

On page 1, line 1 of the title, after "hazing;" strike the remainder of the title and insert "amending RCW 28B.10.901, 9.94A.411, 9.94A.515, and 9A.46.060; creating a new section; and prescribing penalties."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1002 and advanced the bill, as amended by the Senate, to final passage.

Representatives Leavitt and Mosbrucker spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1002, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1002, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 1; Excused, 0

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representative Chandler

HOUSE BILL NO. 1002, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Monday, April 10, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1009, with the following amendment(s): 1009-S2 AMS WM S2942.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This act may be known and cited as the military spouse employment act.

NEW SECTION. **Sec. 2.** The legislature finds that the lives of military spouses are dominated by frequent deployments and

relocations, and one-third of military families move each year. Many military families depend on two incomes, and military spouses tend to be better educated than the civilian population, with approximately 34 to 50 percent working in fields that require a professional license. The length of time to credential after a move is a significant employment barrier, with one study finding 20 percent of military spouses waited at least 10 months for a license after moving to a new state. This wait contributes to higher rates of unemployment or underemployment for military spouses when compared to their civilian counterparts. Given the fiscal and economic constraints of military families and the readiness considerations of the department of defense, the legislature intends to help alleviate the career turmoil military spouses face while serving in our state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.340 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means any agency, board, commission, or other authority for issuance of a license, certificate, registration, or permit under this title. "Authority" does not include the department of labor and industries, or the department of financial institutions with respect to escrow agent licensure under chapter 18.44 RCW.

(2) "License" means a license, certificate, registration, or permit to perform professional services.

**Sec. 4.** RCW 18.340.020 and 2011 2nd sp.s. c 5 s 2 are each amended to read as follows:

~~(1) ((For the purposes of this section, "authority" means any board, commission, or other authority for issuance of a license, certificate, registration, or permit under this title.~~

~~(2) To the extent resources are available:))~~

(a) Each authority shall establish procedures to expedite the issuance of a license ~~((, certificate, registration, or permit to perform professional services))~~ regulated by each such authority to a person:

(i) Who is ~~((certified or))~~ licensed, certified, or registered, or has a permit in another state to perform professional services in that state; and

(ii) Whose spouse is the subject of a military transfer to Washington ~~((, and~~

~~((iii) Who left employment in the other state to accompany the person's spouse to Washington)).~~

(b) The procedure must include a process for issuing the person a license ~~((, certificate, registration, or permit, if, in the opinion of the authority, the requirements for licensure, certification, registration, or obtaining a permit of such other state are substantially equivalent to that required in Washington))~~ within 30 days of receiving a completed application. A completed application means that the

authority has received all supporting materials, related application fees, fingerprints, and required documentation associated with a criminal background check.

~~((e))~~(2) Each authority in this title shall develop a method and adopt rules to authorize a person who meets the criteria in ~~((a)(i) through (iii) of)~~ this ~~((subsection))~~section to perform services regulated by the authority in Washington by issuing the person a temporary license~~(, certificate, registration, or permit)~~within 30 days of receiving a completed application. A completed application means that the authority has received a copy of the certificate issued by the other state for a certificated education professional, related application fees, fingerprints, and required documentation associated with a criminal background check. The license may be issued for a limited period of time of no less than 180 days to allow the person to perform services regulated by the authority while completing any specific additional requirements in Washington that are not related to training or practice standards of the profession that were not required in the other state in which the person is licensed, certified, or registered, or has a permit.

(3) Nothing in this section requires the authority to issue a ~~((temporary))~~ license~~(, certificate, registration, or permit)~~ if the standards of the other state are substantially unequal to Washington standards.

~~((d))~~(4) An applicant must state in the application that ~~((he or she))~~the applicant:

~~((i))~~(a) Has requested verification from the other state or states that the person is currently licensed, certified, registered, or has a permit; and

~~((ii))~~(b) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body of the other state or states.

~~((e))~~(5) If the authority finds reasonable cause to believe that an applicant falsely affirmed or stated either of the requirements under ~~((d)(i) or (ii) of this))~~ subsection (4)(a) or (b) of this section, the authority may summarily suspend the license~~(, certificate, registration, or permit)~~ pending an investigation or further action to discipline or revoke the license~~(, certificate, registration, or permit)~~.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.340 RCW to read as follows:

(1) Each authority must identify a contact or coordinator within the authority to assist military spouse applicants and licensees.

(2) Each authority must provide training to each board or commission member on the culture of military spouses, the military spouse experience, and issues related to military spouse career paths. Board or commission members appointed on or before October 1, 2023, must complete the training by January 1, 2024. Board or commission members appointed after October 1, 2023, must complete the training within 90 days after appointment. The department of

veterans affairs shall create an internet-based training that may be used by each authority to satisfy this requirement.

(3) Each authority is encouraged to:

(a) Appoint a military spouse to serve on its licensing board or commission;

(b) Conduct a review of the authority's licensing application process for military spouses and identify barriers to military spouse employment; and

(c) Review licensing fees and related expenses and identify possible ways to reduce costs for military spouses.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.340 RCW to read as follows:

(1) The employment security department, the department of health, the department of licensing, and the department of veterans affairs shall each maintain a military spouse assistance web page containing, at a minimum:

(a) Each authority's rules and procedures, including any required fees, related to the licensing of military spouses;

(b) Contact information for each authority's military spouse contact or coordinator; and

(c) Links to the military spouse assistance web pages of other agencies.

(2) A direct link to the agency's military spouse assistance web page must be displayed on the agency's home page.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.410 RCW to read as follows:

The agency responsible for educator certification shall, as set forth in chapter 18.340 RCW:

(1) Adopt rules for expedited professional certification for military spouses;

(2) Identify a contact or coordinator to assist military spouse applicants and licensees;

(3) Provide training to each board member on the culture of military spouses, the military spouse experience, and issues related to military spouse career paths; and

(4) Maintain a military spouse assistance web page.

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.60A RCW to read as follows:

(1) The department, the employment security department, and the department of commerce shall consult local chambers of commerce, associate development organizations, and businesses to initiate a demonstration campaign to increase military spouse employment. This campaign may include partnerships with chambers of commerce that result in business owners sharing, with the local chamber of commerce, information on the number of military spouses employed and the local chambers of commerce providing this information to the department.

(2) Participants in the campaign are encouraged to work with the Washington state military transition council and county

veterans' advisory boards under RCW 73.08.035.

(3) Funding for the campaign shall be established from existing resources.

(4) For the purposes of this section, "military spouse" means any person married or previously married to a military service member, irrespective of the length of the marriage, during the military service member's service in any branch of the United States armed forces as an active duty service member, reservist, or national guard member.

**NEW SECTION. Sec. 9.** A new section is added to chapter 38.42 RCW to read as follows:

(1) The spouse of a service member may terminate an employment contract without penalty at any time after the service member receives military service orders for a permanent change of station if:

(a) The spouse provides written notice, including email, to the employer of the termination under this section; and

(b) The spouse provides written proof to the employer of the official orders showing that the service member has received military orders for a permanent change of station.

(2) Termination of an employment contract under this section is effective on the day notice is given under subsection (1) of this section or on a date mutually agreed to by the parties to the employment contract.

(3) An employer may not impose any penalty for termination of an employment contract under this section.

(4) For purposes of this section:

(a) "Employment contract" means a contract that establishes the terms of employment or other professional relationship with the spouse of a service member. "Employment contract" does not include an independent contractor agreement.

(b) "Penalty" means any fee or cost or liability for breach of contract or any other adverse consequence imposed by the employer. "Penalty" does not include any requirements established by state or federal law.

(5) This section applies prospectively only and not retroactively. It applies only to employment contracts entered into on or after the effective date of this section.

(6) Nothing in this section shall be construed as altering the terms, conditions, or practices contained in any collective bargaining agreement in effect on the effective date of this section until the expiration date of such agreement.

**Sec. 10.** RCW 73.04.150 and 2017 c 184 s 1 are each amended to read as follows:

(1) There is hereby created a joint committee on veterans' and military affairs. The committee shall consist of: (a) Eight members of the senate appointed by the president of the senate, four of whom shall be members of the majority party and four of whom shall be members of the minority party; and (b) eight members of the house of representatives appointed by the speaker, four of whom shall be members of the majority party and four of whom shall be

members of the minority party. Members of the committee shall be appointed before the close of the 2005 legislative session, and before the close of each regular session during an odd-numbered year thereafter.

(2) Each member's term of office shall run from the close of the session in which he or she was appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term shall continue until the member is reappointed or a successor is appointed. The term of office for a committee member who does not continue as a member of the senate or house of representatives shall cease upon the convening of the next session of the legislature during an odd-numbered year after the member's appointment, or upon the member's resignation, whichever is earlier. Vacancies on the committee shall be filled by appointment in the same manner as described in subsection (1) of this section. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(3) The committee shall establish an executive committee of four members, two of whom are members of the senate and two of whom are members of the house of representatives. The executive committee shall appoint one cochair from the two executive committee members who are senators and one cochair from the two executive committee members who are representatives. The two cochairs shall be from different political parties and their terms of office shall run from the close of the session in which they are appointed until the close of the next regular session in an odd-numbered year. The executive committee is responsible for performing all general administrative and personnel duties assigned to it in the rules and procedures adopted by the joint committee, as well as other duties delegated to it by the joint committee.

(4) The joint committee on veterans' and military affairs has the following powers and duties:

(a) To study veterans' issues, active military forces issues, and national guard and reserve component issues, and make recommendations to the legislature; and

(b) To study structure and administration of the department of veterans affairs and the military department, and make recommendations to the legislature.

(5) The joint committee shall adopt rules and procedures for its orderly operation. The joint committee may create subcommittees to perform duties under this section.

(6) The regulating authorities for the department of licensing ~~((and))~~, the department of health, and the professional educator standards board shall file reports to the legislature ~~((biennially and the Washington state military transition council))~~ annually beginning January 1, ~~((2018))~~ 2024, and appear annually before the joint committee on veterans' and military affairs, to provide updates on progress in their efforts to implement the requirements of chapter 18.340 RCW, chapter 32, Laws of 2011, ~~((and))~~ chapter 351, Laws of 2011 ~~((-- By January 1, 2018, the department of labor and industries and the professional educator~~

~~standards board must each submit a report to the legislature, including an assessment on how its licensing, certification, and apprenticeship programs apply training and experience acquired by military members and their spouses outside of Washington, and recommendations about whether such programs should be included in the reporting schedule within this subsection)), and section 6 of this act.~~

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1028, with the following amendment(s): 1028-S2 AMS LAW S2359.3

Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 11.** Section 4 of this act takes effect October 1, 2023."

On page 1, line 1 of the title, after "employment;" strike the remainder of the title and insert "amending RCW 18.340.020 and 73.04.150; adding new sections to chapter 18.340 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 43.60A RCW; adding a new section to chapter 38.42 RCW; creating new sections; and providing an effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1009 and advanced the bill, as amended by the Senate, to final passage.

Representatives Leavitt and Volz spoke in favor of the passage of the bill.

### MOTION

On motion of Representative Ramel, Representative Ortiz-Self was excused.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1009, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1009, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representative Ortiz-Self

SECOND SUBSTITUTE HOUSE BILL NO. 1009, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.10 RCW to read as follows:

(1) (a) The sexual assault forensic examination best practices advisory group is established within the office of the attorney general for the purpose of reviewing best practice models for managing all aspects of sexual assault investigations and for reducing the number of untested sexual assault kits in Washington state.

(i) The caucus leaders from the senate shall appoint one member from each of the two largest caucuses of the senate.

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

(iii) The attorney general, in consultation with the legislative members of the advisory group, shall appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

(II) The Washington association of sheriffs and police chiefs;

(III) The Washington association of prosecuting attorneys;

(IV) The Washington defender association or the Washington association of criminal defense lawyers;

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The office of the attorney general; and

(XI) The criminal justice training commission;

(B) Two members representing survivors of sexual assault;

(C) One member who is a sexual assault nurse examiner;

(D) Two members who are law enforcement officers, one from a rural area and one from an urban area of the state;

(E) One member who is a prosecuting attorney serving in a county in a rural area of the state; and

(F) Two members who are community-based advocates, one from a rural area and one from an urban area of the state.

(b) When appointing members under (a) (iii)(D) of this subsection, the office of the attorney general shall solicit recommendations from statewide labor organizations representing law enforcement officers.

(2) The duties of the advisory group include, but are not limited to:

(a) Researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault kit is collected to the conclusion of the investigation and prosecution of a case, and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps;

(b) Researching and making recommendations on opportunities to increase access to, and availability of, critical sexual assault nurse examiner services;

(c) Monitoring the testing of the backlog of sexual assault kits and the supply chain and distribution of sexual assault kits;

(d) Monitoring implementation of state and federal legislative changes;

(e) Collaborating with the legislature, state agencies, medical facilities, and local governments to implement reforms pursuant to federal grant requirements; and

(f) Making recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

(3) The office of the attorney general shall administer and provide staff support to the advisory group.

(4) Legislative members of the advisory group must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The advisory group must meet no less than twice annually.

(6) The advisory group shall report its findings and recommendations to the appropriate committees of the legislature and the governor by December 15th of each year.

(7) This section expires July 1, 2026.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall administer a grant program for establishing a statewide resource prosecutor for sexual assault cases.

(2) The grant recipient must be a statewide organization or association representing prosecuting attorneys. The grant recipient shall hire a resource prosecutor for the following purposes:

(a) To provide technical assistance and research to prosecutors for prosecuting sexual assault cases;

(b) To provide additional training and resources to prosecutors to support a trauma-informed, victim-centered approach to prosecuting sexual assault cases;

(c) To meet regularly with law enforcement agencies and prosecutors to explain legal issues and prosecutorial approaches to sexual assault cases and

provide and receive feedback to improve case outcomes;

(d) To consult with the commission, the office of the attorney general, and the sexual assault forensic examination best practices advisory group under section 1 of this act with respect to developing and implementing best practices for prosecuting sexual assault cases across the state; and

(e) To comply with other requirements established by the commission under this section.

(3) The commission may, in consultation with the sexual assault forensic examination best practices advisory group under section 1 of this act, establish additional appropriate conditions for any grant awarded under this section. The commission may adopt necessary policies and procedures to implement and administer the grant program, including monitoring the use of grant funds and compliance with the grant requirements.

**Sec. 3.** RCW 43.101.272 and 2019 c 93 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault ((eases))and other gender-based violence involving adult victims, and the highest ranking supervisors and commanders overseeing sexual assault and other gender-based violence investigations. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

(2) The training must: Be based on research-based practices and standards; offer participants an opportunity to practice interview skills and receive feedback from instructors; minimize the trauma of all persons who are interviewed during abuse investigations; provide methods of reducing the number of investigative interviews necessary whenever possible; assure, to the extent possible, that investigative interviews are thorough, objective, and complete; recognize needs of special populations; recognize the nature and consequences of victimization; require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; address record retention and retrieval; address documentation of investigative interviews; and educate investigators on the best practices for notifying victims of the results of forensic analysis of sexual assault kits and other significant events in the investigative process, including for active investigations and cold cases.

(3) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault, gender-based violence, and the neurobiology of trauma. The commission

shall consult with the Washington association of prosecuting attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with sexual assault victims in the criminal justice system.

(4) ~~((The commission shall develop the training and begin offering it by July 1, 2018.))~~ Officers assigned to regularly investigate sexual assault and other gender-based violence involving adult victims and the highest ranking supervisors and commanders overseeing those investigations shall complete the training within one year of being assigned ~~((or by July 1, 2020, whichever is later)).~~

**Sec. 4.** RCW 43.101.276 and 2017 c 290 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall develop peace officer training on a victim-centered, trauma-informed approach to interacting with victims and responding to ~~((sexual assault))~~ calls involving gender-based violence. The curriculum must: Be ~~((designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases; be))~~ designed for deployment and use within individual law enforcement agencies; include features allowing for it to be used in different environments, which may include multimedia or video components; and allow for law enforcement agencies to host it in small segments at different times over several days or weeks, including roll calls. The training must include components on available resources for victims including, but not limited to, material on and references to community-based victim advocates.

(2) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault, gender-based violence, and the neurobiology of trauma.

(3) ~~((Beginning in 2018, all law enforcement agencies shall annually host the training for commissioned peace officers. All law enforcement agencies shall, to the extent feasible, consult with and feature local community-based victim advocates during the training.))~~ All peace officers shall complete the training under this section at least once every three years.

**Sec. 5.** RCW 43.101.278 and 2021 c 118 s 3 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct an annual case review program. The program must review case files from law enforcement agencies and prosecuting attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The program must include:

(a) An evaluation of whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews and that identifies best practices and current gaps in training and assesses the integration of the community resiliency model;

(b) A comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training;

(c) A comparison of cases involving prosecutors who have participated in the training described in section 6 of this act to cases involving prosecutors who have not participated in such training;

(d) Randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating and prosecuting sexual assault cases and interacting with survivors; and

~~((d))~~ (e) An analysis of the impact that race and ethnicity have on sexual assault case outcomes.

(2) The case review program may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of adult sexual assault only. Any law enforcement agency or prosecuting attorney selected for the program by the commission shall make requested case files and other documents available to the commission, provided that the case files are not linked to ongoing, open investigations and that redactions may be made where appropriate and necessary. Agencies and prosecuting attorneys shall include available information on the race and ethnicity of all sexual assault victims in the relevant case files provided to the commission. Case files and other documents must be made available to the commission according to appropriate deadlines established by the commission in consultation with the agency or prosecuting attorney.

(3) If a law enforcement agency has not participated in the training under RCW 43.101.272 ~~((by July 1, 2022))~~ or 43.101.276 within the previous 24 months, the commission may prioritize the agency for selection to participate in the program under this section.

(4) In designing and conducting the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

(5) The commission shall submit a report with a summary of its work to the governor and the appropriate committees of the legislature by December 1st of each year.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific



purpose, the commission shall, in partnership with the special resource prosecutor under section 2 of this act, develop and conduct specialized, intensive, and integrative training for persons responsible for prosecuting sexual assault cases involving adult victims.

(2) The training must:

(a) Use a victim-centered, trauma-informed approach to prosecuting sexual assaults including, but not limited to, the following goals: Recognizing the nature and consequences of victimization; prioritizing the safety and well-being of victims; and recognizing the needs of special populations;

(b) Include content on the neurobiology of trauma and trauma-informed interviewing, counseling, investigative, and prosecution techniques;

(c) Offer participants an opportunity to practice interview and trial skills, including receiving feedback from instructors;

(d) Share best practices for communicating with victims throughout the criminal justice process;

(e) Include additional content relevant to and informed by best practices for improving outcomes in sexual assault prosecutions, as deemed appropriate by the commission;

(f) Take into account the training under RCW 43.101.272 in order to provide consistent and complimentary training for investigators and prosecutors;

(g) Be designed to qualify for some continuing legal education credits through the Washington state bar association; and

(h) Be offered at least once per calendar year and be deployed in different locations across the state, or through some other broadly accessible means, in order to improve access to the training for prosecutors serving in small offices or rural areas.

**Sec. 7.** RCW 43.43.754 and 2021 c 215 s 149 are each amended to read as follows:

(1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony, or adjudicated of an offense which if committed by an adult would be a felony, or any of the following crimes (or equivalent juvenile offenses):

(i) Assault in the fourth degree where domestic violence as defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041, 9.94A.030);

(ii) Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835);

(iii) Communication with a minor for immoral purposes (RCW 9.68A.090);

(iv) Custodial sexual misconduct in the second degree (RCW 9A.44.170);

(v) Failure to register (chapter 9A.44 RCW);

(vi) Harassment (RCW 9A.46.020);

(vii) Patronizing a prostitute (RCW 9A.88.110);

(viii) Sexual misconduct with a minor in the second degree (RCW 9A.44.096);

(ix) Stalking (RCW 9A.46.110);

(x) Indecent exposure (RCW 9A.88.010);

(xi) Violation of a sexual assault protection order granted under chapter 7.105 RCW or former chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2)(a) A municipal jurisdiction may also submit any biological sample to the laboratory services bureau of the Washington state patrol for purposes of DNA identification analysis when:

(i) The sample was collected from a defendant upon conviction for a municipal offense where the underlying ordinance does not adopt the relevant state statute by reference but the offense is otherwise equivalent to an offense in subsection (1)(a) of this section;

(ii) The equivalent offense in subsection (1)(a) of this section was an offense for which collection of a biological sample was required under this section at the time of the conviction; and

(iii) The sample was collected on or after June 12, 2008, and before January 1, 2020.

(b) When submitting a biological sample under this subsection, the municipal jurisdiction must include a signed affidavit from the municipal prosecuting authority of the jurisdiction in which the conviction occurred specifying the state crime to which the municipal offense is equivalent.

(3) Law enforcement may submit to the forensic laboratory services bureau of the Washington state patrol, for purposes of DNA identification analysis, any lawfully obtained biological sample within its control from a deceased offender who was previously convicted of an offense under subsection (1)(a) of this section, regardless of the date of conviction.

(4) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(5) Biological samples shall be collected in the following manner:

(a) (i) (A) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, and are serving a term of confinement in a city or county jail facility, the city or county jail facility shall be responsible for obtaining the biological samples prior to the person's release from confinement.

(B) Each city and county jail facility must adopt and implement a policy that collects biological samples from persons convicted of an offense listed in subsection (1)(a) of this section as soon as practicable during the person's term of confinement.

(ii) If the biological sample is not collected prior to the person's release from confinement, the responsible city or county jail facility shall notify the sentencing court within three business days of the person's release that it has released the

person without collecting the person's biological sample, and provide the reason for releasing the person without collecting a biological sample. Within 10 days of receiving notice of the person's release, the sentencing court shall schedule a compliance hearing. The jail shall serve or cause to be served notice to the person of the compliance hearing and shall file proof of service with the sentencing court. A representative of the jail shall attend the compliance hearing and obtain the person's biological sample at the hearing. The court may, in its discretion, require the jail to pay attorneys' fees and court costs associated with scheduling and attending the compliance hearing.

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who do not serve a term of confinement in a department of corrections facility, department of children, youth, and families facility, or a city or county jail facility; and

(ii) Persons who are required to register under RCW 9A.44.130.

(c) (i) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of children, youth, and families facility, the facility holding the person shall be responsible for obtaining the biological samples as part of the intake process. If the facility did not collect the biological sample during the intake process, then the facility shall collect the biological sample as soon as is practicable prior to the person's release from confinement. For those persons incarcerated before June 12, 2008, who have not yet had a biological sample collected, priority shall be given to those persons who will be released the soonest.

(ii) If the biological sample is not collected prior to the person's release from confinement, the responsible department of corrections facility or department of children, youth, and families facility shall notify the sentencing court within three business days of the person's release that it has released the person without collecting the person's biological sample. Within 10 days of receiving notice of the person's release, the sentencing court shall schedule a compliance hearing. The responsible department of corrections facility or department of children, youth, and families facility shall serve or cause to be served notice to the person of the compliance hearing and shall file proof of service with the sentencing court. A representative of the responsible department of corrections facility or department of children, youth, and families facility shall attend the compliance hearing and obtain the person's biological sample at the hearing. The court may, in its discretion, require the responsible department of corrections facility or department of children, youth,

and families facility to pay attorneys' fees and court costs associated with scheduling and attending the compliance hearing.

(d) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who will not serve a term of confinement, the court shall: Order the person to ~~((report to the local police department or sheriff's office as provided under subsection (5)(b)(i) of this section within a reasonable period of time established by the court in order to provide a biological sample))~~ be administratively booked at a city or county jail facility for the sole purpose of providing a biological sample; or if the local police department or sheriff's office has a protocol for collecting the biological sample in the courtroom, order the person to immediately provide the biological sample to the local police department or sheriff's office before leaving the presence of the court. The court must further inform the person that refusal to provide a biological sample is a gross misdemeanor under this section.

(e) For persons convicted of any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, the court shall create and implement a biological sample collection protocol. The court shall order the biological samples at the time of sentencing. The court shall inform the person that refusal to provide a biological sample is a gross misdemeanor under this section. If the biological sample is not collected at the time of sentencing, then the biological sample shall be collected pursuant to (a) through (d) of this subsection (5), and the court shall schedule a compliance hearing within 10 days of the sentencing to ensure that the biological sample has been collected.

(6) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

(7) The forensic laboratory services bureau of the Washington state patrol is responsible for testing performed on all biological samples that are collected under this section, to the extent allowed by funding available for this purpose. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

(8) This section applies to:

(a) All adults and juveniles to whom this section applied prior to June 12, 2008;

(b) All adults and juveniles to whom this section did not apply prior to June 12, 2008, who:

(i) Are convicted on or after June 12, 2008, of an offense listed in subsection (1) (a) of this section on the date of conviction; or

(ii) Were convicted prior to June 12, 2008, of an offense listed in subsection (1) (a) of this section and are still incarcerated on or after June 12, 2008;

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after June 12, 2008, whether convicted before, on, or after June 12, 2008; and

(d) All samples submitted under subsections (2) and (3) of this section.

(9) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

(10) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks. No cause of action may be brought against the state based upon the analysis of a biological sample authorized to be taken pursuant to a municipal ordinance if the conviction or adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including, but not limited to, posttrial or postfact-finding motions, appeals, or collateral attacks.

(11) A person commits the crime of refusal to provide DNA if the person willfully refuses to comply with a legal request for a DNA sample as required under this section. The refusal to provide DNA is a gross misdemeanor.

**Sec. 8.** RCW 9A.04.080 and 2022 c 282 s 4 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

- (i) Murder;
- (ii) Homicide by abuse;
- (iii) Arson if a death results;
- (iv) Vehicular homicide;
- (v) Vehicular assault if a death results;
- (vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));
- (vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;
- (viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;
- (ix) Rape of a child in the first degree (RCW 9A.44.073);
- (x) Rape of a child in the second degree (RCW 9A.44.076);
- (xi) Rape of a child in the third degree (RCW 9A.44.079);
- (xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);

(xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);

(xiv) Child molestation in the first degree (RCW 9A.44.083);

(xv) Child molestation in the second degree (RCW 9A.44.086);

(xvi) Child molestation in the third degree (RCW 9A.44.089); and

(xvii) Sexual exploitation of a minor (RCW 9.68A.040).

(b) Except as provided in (a) of this subsection, the following offenses may not be prosecuted more than twenty years after its commission:

(i) Rape in the first degree (RCW 9A.44.040);

(ii) Rape in the second degree (RCW 9A.44.050); or

(iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses may not be prosecuted more than ten years after its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii) Rape in the third degree (RCW 9A.44.060);

(iv) Attempted murder; or

(v) Trafficking under RCW 9A.40.100.

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

(iv) RCW 9A.64.020 (incest).

(e) The following offenses may not be prosecuted more than six years after its commission or discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400;

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010; or

(vii) Violations of RCW 82.32.290 (2)(a) (iii) or (4).

(f) The following offenses may not be prosecuted more than five years after its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(g) Bigamy may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(h) A violation of RCW 9A.56.030 may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(i) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(j) No gross misdemeanor may be prosecuted more than two years after its commission.

(k) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or ~~((two))~~ four years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

**NEW SECTION. Sec. 9.** A new section is added to chapter 70.02 RCW to read as follows:

A disclosure authorization to a health care provider or health care facility authorizing disclosure of information to law enforcement regarding a forensic examination performed for the purposes of gathering evidence for possible prosecution of a criminal offense must be valid until the end of all related criminal proceedings or a later event selected by the provider, facility, patient, or patient's representative, unless the patient or patient's representative requests a different expiration date or event for the disclosure authorization.

**Sec. 10.** RCW 9A.44.020 and 2013 c 302 s 7 are each amended to read as follows:

(1) In order to convict a person of any crime defined in this chapter it shall not be necessary that the testimony of the alleged victim be corroborated.

(2) Evidence of the victim's past sexual behavior including but not limited to the victim's marital history~~((~~τ~~))~~; divorce history~~((~~τ~~))~~; general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards; or, unless

it is related to the alleged offense, social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as provided in subsection (3) of this section, but when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

(3) In any prosecution for the crime of rape, trafficking pursuant to RCW 9A.40.100, or any of the offenses in chapter 9.68A RCW, or for an attempt to commit, or an assault with an intent to commit any such crime evidence of the victim's past sexual behavior including but not limited to the victim's marital behavior~~((~~τ~~))~~; divorce history~~((~~τ~~))~~; general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards; or, unless it is related to the alleged offense, social media account, including any text, image, video, or picture, which depict sexual content, sexual history, nudity or partial nudity, intimate sexual activity, communications about sexual activity, communications about sex, sexual fantasies, and other information that appeals to a prurient interest is not admissible if offered to attack the credibility of the victim and is admissible on the issue of consent, except where prohibited in the underlying criminal offense, only pursuant to the following procedure:

(a) A written pretrial motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the past sexual behavior of the victim proposed to be presented and its relevancy on the issue of the consent of the victim.

(b) The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated.

(c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.

(d) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the defendant regarding the past sexual behavior of the victim is relevant to the issue of the victim's consent; is not inadmissible because its probative value is substantially outweighed by the probability that its admission will create a substantial danger of undue prejudice; and that its exclusion would result in denial of substantial justice to the defendant; the court shall make an order stating what evidence may be introduced by

the defendant, which order may include the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(4) Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the prosecution presents evidence in its case in chief tending to prove the nature of the victim's past sexual behavior, but the court may require a hearing pursuant to subsection (3) of this section concerning such evidence.

**Sec. 11.** RCW 7.69.030 and 2022 c 229 s 1 are each amended to read as follows:

(1) There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any adult or juvenile criminal ~~((court and/or juvenile court))~~ proceeding and any civil commitment proceeding under chapter 71.09 RCW:

~~((1))~~(a) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

~~((2))~~(b) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

~~((3))~~(c) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

~~((4))~~(d) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

~~((5))~~(e) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

~~((6))~~(f) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

~~((7))~~(g) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

~~((8))~~(h) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process or the civil commitment process

under chapter 71.09 RCW in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

~~((9))~~(i) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in RCW 49.76.020, shall be notified of their right to reasonable leave from employment under chapter 49.76 RCW;

~~((10))~~(j) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

~~((11))~~(k) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

~~((12))~~(l) With respect to victims and survivors of victims in any felony case ~~((or))~~, any case involving domestic violence, or any final determination under chapter 71.09 RCW, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing or disposition hearing upon request by a victim or survivor;

~~((13))~~(m) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

~~((14))~~(n) With respect to victims and survivors of victims in any felony case or any case involving domestic violence, to present a statement, personally or by representation, at the sentencing hearing; and

~~((15))~~(o) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment.

(2) If a victim, survivor of a victim, or witness of a crime is denied a right under this section, the person may seek an order

directing compliance by the relevant party or parties by filing a petition in the superior court in the county in which the crime occurred and providing notice of the petition to the relevant party or parties. Compliance with the right is the sole available remedy. The court shall expedite consideration of a petition filed under this subsection.

**NEW SECTION. Sec. 12.** Section 4 of this act takes effect July 1, 2024.

**NEW SECTION. Sec. 13.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 3 of the title, after "system;" strike the remainder of the title and insert "amending RCW 43.101.272, 43.101.276, 43.101.278, 43.43.754, 9A.04.080, 9A.44.020, and 7.69.030; adding a new section to chapter 43.10 RCW; adding new sections to chapter 43.101 RCW; adding a new section to chapter 70.02 RCW; creating a new section; providing an effective date; and providing an expiration date."

and the same is herewith transmitted.

Sarah Bannister, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1028 and advanced the bill, as amended by the Senate, to final passage.

Representatives Orwall and Mosbrucker spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1028, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1028, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representative Ortiz-Self

SECOND SUBSTITUTE HOUSE BILL NO. 1028, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1039, with the following amendment(s): 1039-S2 AMS HLTC S2377.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.74.010 and 2018 c 222 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authorized health care practitioner" means and includes licensed physicians, osteopathic physicians, chiropractors, naturopaths, podiatric physicians and surgeons, dentists, and advanced registered nurse practitioners: PROVIDED, HOWEVER, That nothing herein shall be construed as altering the scope of practice of such practitioners as defined in their respective licensure laws.

(2) "Board" means the board of physical therapy created by RCW 18.74.020.

(3) "Close supervision" means that the supervisor has personally diagnosed the condition to be treated and has personally authorized the procedures to be performed. The supervisor is continuously on-site and physically present in the operatory while the procedures are performed and capable of responding immediately in the event of an emergency.

(4) "Department" means the department of health.

(5) "Direct supervision" means the supervisor must (a) be continuously on-site and present in the department or facility where the person being supervised is performing services; (b) be immediately available to assist the person being supervised in the services being performed; and (c) maintain continued involvement in appropriate aspects of each treatment session in which a component of treatment is delegated to assistive personnel or is required to be directly supervised under RCW 18.74.190.

(6) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the patient and the patient has been examined by the physical therapist at such time as acceptable health care practice requires and consistent with the particular delegated health care task.

(7) "Physical therapist" means a person who meets all the requirements of this chapter and is licensed in this state to practice physical therapy.

(8) (a) "Physical therapist assistant" means a person who meets all the requirements of this chapter and is licensed as a physical therapist assistant and who performs physical therapy procedures and related tasks that have been selected and delegated only by the supervising physical therapist. However, a physical therapist may

not delegate sharp debridement to a physical therapist assistant.

(b) "Physical therapy aide" means an unlicensed person who receives ongoing on-the-job training and assists a physical therapist or physical therapist assistant in providing physical therapy patient care and who does not meet the definition of a physical therapist, physical therapist assistant, or other assistive personnel. A physical therapy aide may directly assist in the implementation of therapeutic interventions, but may not alter or modify the plan of therapeutic interventions and may not perform any procedure or task which only a physical therapist may perform under this chapter.

(c) "Other assistive personnel" means other trained or educated health care personnel, not defined in (a) or (b) of this subsection, who perform specific designated tasks that are related to physical therapy and within their license, scope of practice, or formal education, under the supervision of a physical therapist, including but not limited to licensed massage therapists, athletic trainers, and exercise physiologists. At the direction of the supervising physical therapist, and if properly credentialed and not prohibited by any other law, other assistive personnel may be identified by the title specific to their license, training, or education.

(9) "Physical therapy" means the care and services provided by or under the direction and supervision of a physical therapist licensed by the state. Except as provided in RCW 18.74.190, the use of Roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the use of spinal manipulation, or manipulative mobilization of the spine and its immediate articulations, are not included under the term "physical therapy" as used in this chapter.

(10) "Practice of physical therapy" is based on movement science and means:

(a) Examining, evaluating, and testing individuals with mechanical, physiological, and developmental impairments, functional limitations in movement, and disability or other health and movement-related conditions in order to determine a diagnosis, prognosis, plan of therapeutic intervention, and to assess and document the ongoing effects of intervention;

(b) Alleviating impairments and functional limitations in movement by designing, implementing, and modifying therapeutic interventions that include therapeutic exercise; functional training related to balance, posture, and movement to facilitate self-care and reintegration into home, community, or work; manual therapy including soft tissue and joint mobilization and manipulation; therapeutic massage; assistive, adaptive, protective, and devices related to postural control and mobility except as restricted by (c) of this subsection; airway clearance techniques; physical agents or modalities; mechanical and electrotherapeutic modalities; and patient-related instruction;

(c) Training for, and the evaluation of, the function of a patient wearing an

orthosis or prosthesis as defined in RCW 18.200.010. Physical therapists may provide those direct-formed and prefabricated upper limb, knee, and ankle-foot orthoses, but not fracture orthoses except those for hand, wrist, ankle, and foot fractures, and assistive technology devices specified in RCW 18.200.010 as exemptions from the defined scope of licensed orthotic and prosthetic services. It is the intent of the legislature that the unregulated devices specified in RCW 18.200.010 are in the public domain to the extent that they may be provided in common with individuals or other health providers, whether unregulated or regulated under this title, without regard to any scope of practice;

(d) Performing wound care services that are limited to sharp debridement, debridement with other agents, dry dressings, wet dressings, topical agents including enzymes, hydrotherapy, electrical stimulation, ultrasound, and other similar treatments. Physical therapists may not delegate sharp debridement. A physical therapist may perform wound care services only with referral from or after consultation with an authorized health care practitioner;

(e) Performing intramuscular needling;

(f) Reducing the risk of injury, impairment, functional limitation, and disability related to movement, including the promotion and maintenance of fitness, health, and quality of life in all age populations; and

~~((f))~~ (g) Engaging in administration, consultation, education, and research.

(11) "Secretary" means the secretary of health.

(12) "Sharp debridement" means the removal of devitalized tissue from a wound with scissors, scalpel, and tweezers without anesthesia. "Sharp debridement" does not mean surgical debridement. A physical therapist may perform sharp debridement, to include the use of a scalpel, only upon showing evidence of adequate education and training as established by rule. Until the rules are established, but no later than July 1, 2006, physical therapists licensed under this chapter who perform sharp debridement as of July 24, 2005, shall submit to the secretary an affidavit that includes evidence of adequate education and training in sharp debridement, including the use of a scalpel.

(13) "Spinal manipulation" includes spinal manipulation, spinal manipulative therapy, high velocity thrust maneuvers, and grade five mobilization of the spine and its immediate articulations.

(14) "Intramuscular needling," also known as "dry needling," means a skilled intervention that uses a single use, sterile filiform needle to penetrate the skin and stimulate underlying myofascial trigger points and connective and muscular tissues for the evaluation and management of neuromusculoskeletal pain and movement impairments. Intramuscular needling requires an examination and diagnosis. Intramuscular needling does not include needle retention without stimulation or the stimulation of auricular and distal points.

(15) Words importing the masculine gender may be applied to females.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.74 RCW to read as follows:

(1) Subject to the limitations of this section, a physical therapist may perform intramuscular needling only after being issued an intramuscular needling endorsement by the secretary. The secretary, upon approval by the board, shall issue an endorsement to a physical therapist who has at least one year of postgraduate practice experience that averages at least 36 hours a week and consists of direct patient care and who provides evidence in a manner acceptable to the board of a total of 325 hours of instruction and clinical experience that meet or exceed the following criteria:

(a) A total of 100 hours of didactic instruction in the following areas:

(i) Anatomy and physiology of the musculoskeletal and neuromuscular systems;

(ii) Anatomical basis of pain mechanisms, chronic pain, and referred pain;

(iii) Trigger point evaluation and management;

(iv) Universal precautions in avoiding contact with a patient's bodily fluids; and

(v) Preparedness and response to unexpected events including but not limited to injury to blood vessels, nerves, and organs, and psychological effects or complications.

(b) A total of 75 hours of in-person intramuscular needling instruction in the following areas:

(i) Intramuscular needling technique;

(ii) Intramuscular needling indications and contraindications;

(iii) Documentation and informed consent for intramuscular needling;

(iv) Management of adverse effects;

(v) Practical psychomotor competency; and

(vi) Occupational safety and health administration's bloodborne pathogens protocol.

(c) A successful clinical review of a minimum of 150 hours of at least 150 individual intramuscular needling treatment sessions by a qualified provider. A physical therapist seeking endorsement must submit an affidavit to the department demonstrating successful completion of this clinical review.

(2) A qualified provider must be one of the following:

(a) A physician licensed under chapter 18.71 RCW; an osteopathic physician licensed under chapter 18.57 RCW; a licensed naturopath under chapter 18.36A RCW; a licensed acupuncture and Eastern medicine practitioner under chapter 18.06 RCW; or a licensed advanced registered nurse practitioner under chapter 18.79 RCW;

(b) A physical therapist credentialed to perform intramuscular needling in any branch of the United States armed forces;

(c) A licensed physical therapist who currently holds an intramuscular needling endorsement; or

(d) A licensed physical therapist who meets the requirements of the intramuscular needling endorsement.

(3) After receiving 100 hours of didactic instruction and 75 hours of in-person intramuscular needling instruction, a physical therapist seeking endorsement has

up to 18 months to complete a minimum of 150 treatment sessions for review.

(4) A physical therapist may not delegate intramuscular needling and must remain in constant attendance of the patient for the entirety of the procedure.

(5) A physical therapist can apply for endorsement before they have one year of clinical practice experience if they can meet the requirement of 100 hours of didactic instruction and 75 hours of in-person intramuscular needling instruction in subsection (1)(a)(i) and (ii) of this section through their prelicensure coursework and has completed all other requirements set forth in this chapter.

(6) If a physical therapist is intending to perform intramuscular needling on a patient who the physical therapist knows is being treated by an acupuncturist or acupuncture and Eastern medicine practitioner for the same diagnosis, the physical therapist shall make reasonable efforts to coordinate patient care with the acupuncturist or acupuncture and Eastern medicine practitioner to prevent conflict or duplication of services.

(7) All patients receiving intramuscular needling from a physical therapist must sign an informed consent form that includes:

(a) The definition of intramuscular needling;

(b) A description of the risks of intramuscular needling;

(c) A description of the benefits of intramuscular needling;

(d) A description of the potential side effects of intramuscular needling; and

(e) A statement clearly differentiating the procedure from the practice of acupuncture.

(8) Intramuscular needling may not be administered as a stand-alone treatment within a physical therapy care plan."

On page 1, line 2 of the title, after "needling;" strike the remainder of the title and insert "amending RCW 18.74.010; and adding a new section to chapter 18.74 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1039 and advanced the bill, as amended by the Senate, to final passage.

Representatives Riccelli and Schmick spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1039, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1039, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1



Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representative Ramos  
Excused: Representative Ortiz-Self

SECOND SUBSTITUTE HOUSE BILL NO. 1039, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Wednesday, March 22, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1049, with the following amendment(s): 1049 AMS LGLT S2167.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.32.0552 and 1990 c 252 s 3 are each amended to read as follows:

If the ballot proposition receives majority voter approval, the size of the board of county commissioners shall be increased to five members as provided in this section.

The two newly created positions shall be filled at elections to be held in the next year. The county shall, as provided in this section, be divided into five commissioner districts, so that each district shall comprise as nearly as possible one-fifth of the population of the county. No two members of the existing board of county commissioners may, at the time of the designation of such districts, permanently reside in one of the five districts. The division of the county into five districts shall be accomplished as follows:

(1) The board of county commissioners shall, by the (~~second Monday of March~~) 20th day prior to the first day of the filing period described in RCW 29A.24.050 of the year following the election, adopt a resolution creating the districts;

(2) If by the (~~second Tuesday of March~~) 89th day prior to the first day of the filing period described in RCW 29A.24.050 of the year following the election the board of county commissioners has failed to create the districts, the prosecuting attorney of the county shall petition the superior court of the county to appoint a referee to designate the five commissioner districts. The referee shall designate such districts by no later than (~~June 1st~~) the 60th day prior to the first day of the filing period described in RCW 29A.24.050 of the year following the election. The two commissioner districts within which no existing member of the board

of county commissioners permanently resides shall be designated as districts four and five."

On page 1, line 3 of the title, after "commissioners;" strike the remainder of the title and insert "and amending RCW 36.32.0552."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1049 and advanced the bill, as amended by the Senate, to final passage.

Representatives Doglio and Goehner spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1049, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1049, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representative Ortiz-Self

HOUSE BILL NO. 1049, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1066, with the following amendment(s): 1066 AMS WELL S2559.1

On page 3, after line 22, insert the following:

"(15) Section 3022 of this act amends cross-references in the interstate compact on educational opportunity for military children."

On page 172, after line 7, insert the following:

"**Sec. 3022.** RCW 28A.705.010 and 2009 c 380 s 1 are each amended to read as follows:

#### ARTICLE I

## PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school districts or variations in entrance and age requirements;

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

D. Facilitating the on-time graduation of children of military families;

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

G. Promoting coordination between this compact and other compacts affecting military children; and

H. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

ARTICLE II  
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. ((Sees-)) Chapters 1209 and 1211.

B. "Children of military families" means school-aged children, enrolled in kindergarten through twelfth grade, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

E. "Education records" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to, records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and

results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate commission on educational opportunity for military children" means the commission that is created under Article IX of this compact, which is generally referred to as the interstate commission.

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth grade public educational institutions.

I. "Member state" means a state that has enacted this compact.

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States department of defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Nonmember state" means a state that has not enacted this compact.

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means a written statement by the interstate commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. territory.

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth grade.

Q. "Transition" means: (1) The formal and physical process of transferring from school to school; or (2) the period of time in which a student moves from one school in the

sending state to another school in the receiving state.

R. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, as well as the commissioned corps of the national oceanic and atmospheric administration, and public health services.

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

#### ARTICLE III APPLICABILITY

A. Except as otherwise provided in section B of this article, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. (~~(Sees-)~~) Chapters 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the national guard and military reserves;

2. Members of the uniformed services now retired, except as provided in section A of this article;

3. Veterans of the uniformed services, except as provided in section A of this article; and

4. Other U.S. department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

#### ARTICLE IV EDUCATIONAL RECORDS AND ENROLLMENT

A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the interstate commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records

to the school in the receiving state within ten days or within such time as is reasonably determined under the rules promulgated by the interstate commission. However, if the student has an unpaid fine at a public school or unpaid tuition, fees, or fines at a private school, then the sending school shall send the information requested but may withhold the official transcript until the monetary obligation is met.

C. Immunizations - On or before the first day of attendance, the parent or guardian must meet the immunization documentation requirements of the Washington board of health. Compacting states shall give thirty days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the interstate commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within such time as is reasonably determined under the rules promulgated by the interstate commission.

D. Kindergarten and first grade entrance age - Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student who has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on his or her validated level from an accredited school in the sending state.

#### ARTICLE V PLACEMENT AND ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and if space is available, as determined by the school district. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

B. Educational program placement - The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the

sending state or participation and placement in like programs in the sending state and if space is available, as determined by the school district. Such programs include, but are not limited to: (1) Gifted and talented programs; and (2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services - (1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and (2) in compliance with the requirements of section 504 of the rehabilitation act, 29 U.S.C. Sec. 794, and with Title II of the Americans with disabilities act, 42 U.S.C. Secs. 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility - Local education agency administrative officials shall have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities - A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by this compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

#### ARTICLE VI ELIGIBILITY

##### A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - Under RCW 28A.225.280, the Washington interscholastic activities association and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified and space is available, as determined by the school district.

#### ARTICLE VII GRADUATION

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements - Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall use best efforts to provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - For students entering high school in eleventh or twelfth grade, states shall accept: (1) Exit or end-of-course exams required for graduation from the sending state; or (2) national norm-referenced achievement tests; or (3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of section C of this article shall apply.

C. Transfers during senior year - Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with sections A and B of this article.

#### ARTICLE VIII STATE COORDINATION

A. Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. While each member state may determine the membership of its own state council, its membership must include at least: The state superintendent of public

instruction, a superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the state council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the state council.

B. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the governor or as otherwise determined by each member state. The governor is strongly encouraged to appoint a practicing K-12 educator as the compact commissioner.

D. The compact commissioner and the military family education liaison designated herein shall be ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX  
INTERSTATE COMMISSION ON EDUCATIONAL  
OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "interstate commission on educational opportunity for military children." The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact;

B. Consist of one interstate commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the interstate commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the interstate commission, the governor or state council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication;

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio

members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members;

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings;

E. Establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rule making, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. department of defense shall serve as an ex officio, nonvoting member of the executive committee;

F. Establish bylaws and rules that provide for conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests;

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the interstate commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the interstate commission's participation in a civil action or other legal proceeding;

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission;

I. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules;

J. Create a process that permits military officials, education officials, and parents to inform the interstate commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the interstate commission or any member state.

#### ARTICLE X POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

A. To provide for dispute resolution among member states;

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact;

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;

D. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

E. To establish and maintain offices which shall be located within one or more of the member states;

F. To purchase and maintain insurance and bonds;

G. To borrow, accept, hire, or contract for services of personnel;

H. To establish and appoint committees including, but not limited to, an executive

committee as required by Article IX, section E of this compact, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it;

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

M. To establish a budget and make expenditures;

N. To adopt a seal and bylaws governing the management and operation of the interstate commission;

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

P. To coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;

Q. To establish uniform standards for the reporting, collecting, and exchanging of data;

R. To maintain corporate books and records in accordance with the bylaws;

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

#### ARTICLE XI ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of the members present and voting, within twelve months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the interstate commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission;

4. Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the interstate commission;

6. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing "start-up" rules for initial administration of the compact.

B. The interstate commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the interstate commission.

C. Executive committee, officers, and personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission;

b. Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the interstate commission.

2. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

D. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a

reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The interstate commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorneys' fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

#### ARTICLE XII RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rule-making authority - The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of this

compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

B. Rule-making procedure - Rules shall be made pursuant to a rule-making process that substantially conforms to the "model state administrative procedure act," of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII  
OVERSIGHT, ENFORCEMENT, AND DISPUTE  
RESOLUTION

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission.

3. The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact, or promulgated rules.

B. Default, technical assistance, suspension, and termination - If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

2. Provide remedial training and specific technical assistance regarding the default;

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default;

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states;

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination including obligations the performance of which extends beyond the effective date of suspension or termination;

6. The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state;

7. The defaulting state may appeal the action of the interstate commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

C. Dispute Resolution

1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

2. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission, may by majority vote of the members, initiate legal action in the United ~~((State[s]))~~ States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be



awarded all costs of such litigation including reasonable attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV  
FINANCING OF THE INTERSTATE COMMISSION

A. The interstate commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

C. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XV  
MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten of the states. The effective date shall be no earlier than December 1, 2007.

Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the interstate commission on a nonvoting basis prior to adoption of the compact by all states.

C. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

B. Dissolution of compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII  
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII  
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

## B. Binding effect of the compact

1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

On page 2, at the beginning of line 6 of the title, strike "and 88.02.620" and insert "88.02.620, and 28A.705.010"

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1066 and advanced the bill, as amended by the Senate, to final passage.

Representative Goodman spoke in favor of the passage of the bill.

Representative Walsh spoke against the passage of the bill.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1066, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1066, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 90; Nays, 7; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Corry, Graham, McEntire, Robertson, Stokesbary, Volz and Walsh

Excused: Representative Ortiz-Self

HOUSE BILL NO. 1066, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1534, with the following amendment(s): 1534-S2 AMS LC S2506.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.27.010 and 2015 c 52 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Contractor" includes any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, or demolish any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith, the installation or repair of roofing or siding, performing tree removal services, or cabinet or similar installation; or, who, to do similar work upon his or her own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided in this chapter.

(b) "Contractor" also includes a consultant acting as a general contractor.

(c) "Contractor" also includes any person, firm, corporation, or other entity covered by this subsection (1), whether or not registered as required under this chapter or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year from the date the structure, project, development, or improvement was substantially completed or abandoned. A person, firm, corporation, or other entity is not a contractor under this subsection (1)(c) if the person, firm, corporation, or other entity contracts with a registered general contractor and does not superintend the work.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of the department of labor and industries or designated representative employed by the department.

(4) "Filing" means delivery of a document that is required to be filed with an agency to a place designated by the agency.

(5) "General contractor" means a contractor whose business operations require the use of more than one building trade or craft upon a single job or project or under a single building permit. A general contractor also includes one who superintends, or consults on, in whole or in part, work falling within the definition of a contractor.

(6) "Notice of infraction" means a form used by the department to notify contractors that an infraction under this chapter has been filed against them.

(7) "Partnership" means a business formed under Title 25 RCW.

(8) "Registration cancellation" means a written notice from the department that a contractor's action is in violation of this chapter and that the contractor's registration has been revoked.

(9) "Registration suspension" means either an automatic suspension as provided in this chapter, or a written notice from the department that a contractor's action is a violation of this chapter and that the contractor's registration has been suspended for a specified time, or until the contractor shows evidence of compliance with this chapter.

(10) "Residential homeowner" means an individual person or persons owning or leasing real property:

(a) Upon which one single-family residence is to be built and in which the owner or lessee intends to reside upon completion of any construction; or

(b) Upon which there is a single-family residence to which improvements are to be made and in which the owner or lessee intends to reside upon completion of any construction.

(11) "Service," except as otherwise provided in RCW 18.27.225 and 18.27.370, means posting in the United States mail, properly addressed, postage prepaid, return receipt requested, or personal service. Service by mail is complete upon deposit in the United States mail to the last known address provided to the department.

(12) "Specialty contractor" means a contractor whose operations do not fall within the definition of "general contractor". A specialty contractor may only subcontract work that is incidental to the specialty contractor's work.

(13) "Substantial completion" means the same as "substantial completion of construction" in RCW 4.16.310.

(14) "Successor" means an applicant operating with all or part of the assets of another entity previously registered under this chapter, where the applicant is under substantially common ownership, management, or control of the other entity.

(15) "Unregistered contractor" means a person, firm, corporation, or other entity doing work as a contractor without being registered in compliance with this chapter. "Unregistered contractor" includes contractors whose registration is expired, revoked, or suspended. "Unregistered contractor" does not include a contractor who has maintained a valid bond and the insurance or assigned account required by RCW 18.27.050, and whose registration has lapsed for ~~((thirty))~~ 30 or fewer days.

~~((15))~~ (16) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

~~((16))~~ (17) "Verification" means the receipt and duplication by the city, town, or county of a contractor registration card that is current on its face, checking the department's contractor registration database, or calling the department to confirm that the contractor is registered.

**Sec. 2.** RCW 18.27.030 and 2008 c 120 s 1 are each amended to read as follows:

(1) An applicant for registration as a contractor shall submit an application under oath upon a form to be prescribed by the director and which shall include the following information pertaining to the applicant:

(a) Employer social security number or individual taxpayer identification number.

(b) Unified business identifier number.

(c) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law.

(d) Employment security department number.

(e) Unified business identifier (UBI) account number may be substituted for the information required by (c) and (d) of this subsection if the applicant will not employ employees in Washington.

(f) Type of contracting activity, whether a general or a specialty contractor and if the latter, the type of specialty.

(g) The name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant is a corporation or the name and address of all members of other business entities. The information contained in such application is a matter of public record and open to public inspection.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(c) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3)(a) The department shall deny an application for registration if: (i) The applicant has been previously performing work subject to this chapter as a sole proprietor, partnership, corporation, or other entity and the department has notice that the applicant has an unsatisfied final judgment against him or her in an action based on work performed subject to this chapter or the applicant owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (ii) the applicant was an owner, principal, or officer of a partnership, corporation, or other entity that either has an unsatisfied final judgment against it in

an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment; (iii) the applicant is a successor to an entity with an unsatisfied final judgment against it in an action that was incurred for work performed subject to this chapter or owes the department money for penalties assessed or fees due under this chapter as a result of a final judgment, except as provided under (d) of this subsection (3); (iv) the applicant does not have a valid unified business identifier number; ~~((iv))~~ (v) the department determines that the applicant has falsified information on the application, unless the error was inadvertent; ~~((or (v)))~~ (vi) the applicant does not have an active and valid certificate of registration with the department of revenue; or (vii) the applicant is under 18 years old at the time of application.

(b) The department shall suspend an active registration if (i) the department has determined that the registrant has an unsatisfied final judgment against it for work within the scope of this chapter; (ii) the department has determined that the registrant is a sole proprietor or an owner, principal, or officer of a registered contractor that has an unsatisfied final judgment against it for work within the scope of this chapter; (iii) the registrant does not maintain a valid unified business identifier number; (iv) the department has determined that the registrant falsified information on the application, unless the error was inadvertent; or (v) the registrant does not have an active and valid certificate of registration with the department of revenue.

(c) The department may suspend an active registration if the department has determined that an owner, principal, partner, or officer of the registrant was an owner, principal, or officer of a previous partnership, corporation, or other entity that has an unsatisfied final judgment against it.

(d) For the purposes of (a)(iii) of this subsection (3), it is presumed that an applicant knew or should have known of the relevant unsatisfied final judgment. If an applicant demonstrates by a preponderance of the evidence that the applicant did not know of the unsatisfied final judgment, by having exercised due diligence and timely verifying with the department that the other contractor was in good standing, then the department may grant the application for registration under this section, provided that the applicant meets applicable requirements under this chapter. The department shall adopt rules for the purposes of implementing this subsection (3) (d).

(4) The department shall not deny an application or suspend a registration because of an unsatisfied final judgment if the applicant's or registrant's unsatisfied final judgment was determined by the director to be the result of the fraud or negligence of another party, unless the applicant or registrant is a successor to

said party under subsection (3)(a)(iii) of this section.

**Sec. 3.** RCW 18.27.040 and 2019 c 155 s 1 are each amended to read as follows:

(1) Each applicant shall file with the department a surety bond issued by a surety insurer who meets the requirements of chapter 48.28 RCW in the sum of ~~((twelve thousand dollars))~~ \$30,000 if the applicant is a general contractor ~~((and six thousand dollars))~~ or \$15,000 if the applicant is a specialty contractor. If no valid bond is already on file with the department at the time the application is filed, a bond must accompany the registration application. The bond shall have the state of Washington named as obligee with good and sufficient surety in a form to be approved by the department. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director. A cancellation or revocation of the bond or withdrawal of the surety from the bond automatically suspends the registration issued to the contractor until a new bond or reinstatement notice has been filed and approved as provided in this section. The bond shall be conditioned that the applicant will pay all persons performing labor, including employee benefits, for the contractor, will pay all taxes and contributions due to the state of Washington, and will pay all persons furnishing material or renting or supplying equipment to the contractor and will pay all amounts that may be adjudged against the contractor by reason of breach of contract including improper work in the conduct of the contracting business. A change in the name of a business or a change in the type of business entity shall not impair a bond for the purposes of this section so long as one of the original applicants for such bond maintains partial ownership in the business covered by the bond.

(2) At the time of initial registration or renewal, the contractor shall provide a bond or other security deposit as required by this chapter and comply with all of the other provisions of this chapter before the department shall issue or renew the contractor's certificate of registration. Any contractor registered as of ~~((July 1, 2001))~~ June 30, 2024, who maintains that registration in accordance with this chapter is in compliance with this chapter until the next renewal of the contractor's certificate of registration.

(3) Any person, firm, or corporation having a claim against the contractor for any of the items referred to in this section may bring suit against the contractor and the bond or deposit in the superior court of the county in which the work was done or of any county in which jurisdiction of the contractor may be had. The surety issuing the bond shall be named as a party to any suit upon the bond. Action upon the bond or deposit brought by a residential homeowner for breach of contract by a party to the construction contract shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within two years from the date the claimed

contract work was substantially completed or abandoned, whichever occurred first. Action upon the bond or deposit brought by any other authorized party shall be commenced by filing the summons and complaint with the clerk of the appropriate superior court within one year from the date the claimed labor was performed and benefits accrued, taxes and contributions owing the state of Washington became due, materials and equipment were furnished, or the claimed contract work was substantially completed or abandoned, whichever occurred first. Service of process in an action filed under this chapter against the contractor and the contractor's bond or the deposit shall be exclusively by service upon the department. Three copies of the summons and complaint and a fee adopted by rule of not less than ~~((fifty dollars))~~ \$50 to cover the costs shall be served by registered or certified mail, or other delivery service requiring notice of receipt, upon the department at the time suit is started and the department shall maintain a record, available for public inspection, of all suits so commenced. Service is not complete until the department receives the fee and three copies of the summons and complaint. The service shall constitute service and confer personal jurisdiction on the contractor and the surety for suit on claimant's claim against the contractor and the bond or deposit and the department shall transmit the summons and complaint or a copy thereof to the contractor at the address listed in the contractor's application and to the surety within two days after it shall have been received.

(4) The surety upon the bond shall not be liable in an aggregate amount in excess of the amount named in the bond nor for any monetary penalty assessed pursuant to this chapter for an infraction. The liability of the surety shall not cumulate where the bond has been renewed, continued, reinstated, reissued or otherwise extended. The surety upon the bond may, upon notice to the department and the parties, tender to the clerk of the court having jurisdiction of the action an amount equal to the claims thereunder or the amount of the bond less the amount of judgments, if any, previously satisfied therefrom and to the extent of such tender the surety upon the bond shall be exonerated but if the actions commenced and pending and provided to the department as required in subsection (3) of this section, at any one time exceed the amount of the bond then unimpaired, claims shall be satisfied from the bond in the following order:

- (a) Employee labor and claims of laborers, including employee benefits;
- (b) Claims for breach of contract by a party to the construction contract;
- (c) Registered or licensed subcontractors, material, and equipment;
- (d) Taxes and contributions due the state of Washington;
- (e) Any court costs, interest, and attorneys' fees plaintiff may be entitled to recover. The surety is not liable for any amount in excess of the penal limit of its bond.

A payment made by the surety in good faith exonerates the bond to the extent of any payment made by the surety.

(5) ~~The total amount paid from a bond or deposit ((required of a general contractor by this section)) to claimants other than residential homeowners must not exceed one-half of the bond ((amount. The total amount paid from a bond or deposit required of a specialty contractor by this section to claimants other than residential homeowners must not exceed one-half of the bond amount or four thousand dollars, whichever is greater)) or deposit.~~

(6) The prevailing party in an action filed under this section against the contractor and contractor's bond or deposit, for breach of contract by a party to the construction contract involving a residential homeowner, is entitled to costs, interest, and reasonable attorneys' fees. The surety upon the bond or deposit is not liable in an aggregate amount in excess of the amount named in the bond or deposit nor for any monetary penalty assessed pursuant to this chapter for an infraction.

(7) If a final judgment impairs the liability of the surety upon the bond or deposit so furnished that there is not in effect a bond or deposit in the full amount prescribed in this section, the registration of the contractor is automatically suspended until the bond or deposit liability in the required amount unimpaired by unsatisfied judgment claims is furnished.

(8) In lieu of the surety bond required by this section the contractor may file with the department an assigned savings account, upon forms provided by the department.

(9) Any person having filed and served a summons and complaint as required by this section having an unsatisfied final judgment against the registrant for any items referred to in this section may execute upon the security held by the department by serving a certified copy of the unsatisfied final judgment by registered or certified mail upon the department within one year of the date of entry of such judgment. Upon the receipt of service of such certified copy the department shall pay or order paid from the deposit, through the registry of the superior court which rendered judgment, towards the amount of the unsatisfied judgment. The priority of payment by the department shall be the order of receipt by the department, but the department shall have no liability for payment in excess of the amount of the deposit.

(10) Within ~~((ten))~~ 10 days after resolution of the case, a certified copy of the final judgment and order, or any settlement documents where a case is not disposed of by a court trial, a certified copy of the dispositive settlement documents must be provided to the department by the prevailing party. Failure to provide a copy of the final judgment and order or the dispositive settlement documents to the department within ~~((ten))~~ 10 days of entry of such an order constitutes a violation of this chapter and a penalty adopted by rule of not less than ~~((two hundred fifty dollars))~~ \$250 may be assessed against the prevailing party.

(11) The director may require an applicant applying to renew or reinstate a registration or applying for a new registration to file a bond of up to three times the normally required amount, if the director determines that an applicant, or a previous registration of a corporate officer, owner, or partner of a current applicant, has had in the past five years one final judgment in actions under this chapter involving a residential single-family dwelling.

(12) The director may adopt rules necessary for the proper administration of the security.

~~((13)(a) The department must convene a work group no later than August 1, 2019, to consider additional safeguards for consumers who engage contractors. The department must provide staff support for the work group and include in the work group: Department staff, large and small contractors that primarily contract with residential homeowners, those that build new and rehabilitate residences, and other interested contractors; surety bond companies; realtors or their representatives; workers and/or their representatives; representatives from the consumer protection division of the office of the attorney general; consumers and/or advocates representing them; and local building officials.~~

~~The work group shall submit a report with recommendations to the department and, if applicable, the appropriate committees of the legislature by June 30, 2020. The report must address whether:~~

~~(i) Bond amounts are sufficient and appropriate to protect consumers, workers, and suppliers and meet tax obligations;~~

~~(ii) Additional criteria for contractors would provide a greater level of protection;~~

~~(iii) Strategies to discourage the transfer of a business to a different entity for the purpose of evading penalties or judgments under this chapter should be implemented;~~

~~(iv) Any other registration requirements or options for consumer recovery under this chapter should be changed to increase protections for consumers; and~~

~~(v) Incentives to adopt industry best practices would increase consumer protections.~~

~~(b) The work group must dissolve once the report is submitted.)~~

**Sec. 4.** RCW 18.27.340 and 1997 c 314 s 17 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a contractor found to have committed an infraction under RCW 18.27.200 shall be assessed a monetary penalty of not less than ~~((two hundred dollars))~~\$200 and not more than ~~((five thousand dollars))~~\$10,000.

(2) The director may waive collection in favor of payment of restitution to a consumer complainant.

(3) A contractor found to have committed an infraction under RCW 18.27.200 for failure to register shall be assessed a fine of not less than ~~((one thousand dollars))~~\$1,200, nor more than ~~((five thousand dollars))~~\$10,000. The director may reduce

the penalty for failure to register, but in no case below ~~((five hundred dollars))~~\$600, if the person becomes registered within ~~((ten))~~10 days of receiving a notice of infraction and the notice of infraction is for a first offense.

(4) Monetary penalties collected under this ~~((chapter))~~section shall be deposited in the ~~((general fund))~~homeowner recovery account under section 7 of this act.

**Sec. 5.** RCW 18.27.400 and 2017 3rd sp.s. c 11 s 1 are each amended to read as follows:

All moneys, except fines and penalties, received or collected under the terms of this chapter must be deposited into the construction registration inspection account. All fines and penalties received or collected under the terms of this chapter shall be deposited in the ~~((general fund))~~homeowner recovery account under section 7 of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.27 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the homeowner recovery program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(2)(a) Beginning July 1, 2026, a person is eligible to recover from the homeowner recovery program, provided that each of the following conditions is satisfied:

(i) The person is a claimant with a final judgment in a court of competent jurisdiction against a registered contractor for a claim brought under RCW 18.27.040(3) on his or her primary residence. For purposes of a claim brought on a multifamily dwelling consisting of more than one unit, only the unit in which the claimant actually resides is considered the claimant's primary residence;

(ii) The judgment specifies the actual damages suffered as a consequence of such a claim;

(iii) The claimant has proceeded against any existing bond covering the contractor;

(iv) The judgment has not been satisfied in full; and

(v) An application for recovery under (b) of this subsection is made within 90 days after the conclusion of the civil action brought under RCW 18.27.040(3).

(b) The department shall publish a form on its website for claimants to apply for payment from the account under this section. The department may determine by rule additional documentation required to complete an application under this section.

(3)(a) The priority of payment for eligible applicants must be by the order of receipt by the department, subject to the limitations in this subsection (3). Payment for an eligible application must be to the full extent of eligibility, without proration, before consideration of payment for a subsequent application in the order of receipt. Determinations regarding payments must be made by the department in its sole discretion.

(b) Payment from the account is limited to actual damages awarded in a final judgment, after recovery against the bond, for a claim brought under RCW 18.27.040(3). Payment from the account for other costs related to or pursuant to civil proceedings, such as attorneys' fees, court costs, or punitive damages, is prohibited.

(c) Payment from the account may not exceed \$25,000 per contractor per parcel, or the amount unpaid on the judgment, whichever is less.

(d)(i) Total payments under the homeowner recovery program for a fiscal year may not be greater than 80 percent of the account balance calculated at the end of the previous fiscal year.

(ii) The department shall create and maintain a waitlist for any eligible applications unpaid due to an insufficient account balance under (d)(i) of this subsection. The waitlist must preserve the order of receipt in accordance with (a) of this subsection.

(e) Eligibility for payment under subsection (2) of this section does not create a right to payment under this section. Payments under this section are discretionary. This section does not create an entitlement to payment or services. This section does not create a right of action.

(f) The department is not criminally or civilly liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for payments under this section.

(4)(a) At the time of payment from the account under this section, the claimant shall assign his or her right, title, and interest in any final judgment on his or her claim against the contractor to the department to the extent of such payment. The department shall be subrogated to the right, title, and interest of the claimant, and may pursue an insurer or other third party to recover amounts paid from the account. Any amount subsequently recovered on the judgment must be for the purpose of reimbursing the account.

(b) A claimant in receipt of payment from the account pursuant to an application under this section is prohibited from pursuing collection, or authorizing another entity to pursue collection on the claimant's behalf, of the damages attributable to the same claims to the extent of such payment.

(c) Upon any payment from the account, the department shall notify the contractor that a payment has been made and the claimant has made an assignment under this section. The department shall include any additional information about the process for reimbursing the account under subsection (5) of this section.

(5)(a) The department may pursue reimbursement to the account from the contractor for the amount paid from the account, as well as interest on that amount, in accordance with rules adopted by the department. The department may establish reimbursement payment plans up to 36 months. Any payment plan longer than 12 months must assess interest as provided in RCW 43.17.240. The department must deposit all moneys recovered in the account.

(b) Where a contractor defaults in payment of reimbursement, collection of amounts will be handled pursuant to the procedures in RCW 49.48.086.

(c) The department's duties with respect to obtaining reimbursement from the contractor to the account are limited to those specified within this subsection (5).

(6) Nothing contained herein limits the authority of the department to take action against a contractor for a violation under this chapter or the rules promulgated thereunder; nor does the reimbursement in full of all obligations to the account by a contractor effect any enforcement of a violation under this chapter or the rules promulgated thereunder.

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

(a) "Account" means the homeowner recovery account created in section 7 of this act.

(b) "Claimant" means the owner of an owner-occupied residential property in the state.

(c) "Residential property" means a single-family dwelling, or a multifamily dwelling consisting of four or fewer units, but does not include a condominium.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.27 RCW to read as follows:

The homeowner recovery account is created in the custody of the state treasurer. All repayments under section 6 of this act, private contributions, and other moneys transferred or directed to the account must be deposited into the account. Expenditures from the account may only be used for the homeowner recovery program to satisfy unpaid judgments for eligible claims under section 6 of this act. Administrative costs of the program may not be paid from the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 8.** A new section is added to chapter 18.27 RCW to read as follows:

(1) By December 1st of each year through 2034, the department must submit an annual report to the appropriate committees of the legislature, in accordance with RCW 43.01.036, on the homeowner recovery program under section 6 of this act, including the following information for the previous fiscal year:

(a) The applications made under the program, including data as to claim amounts;

(b) The payments made under the program;

(c) The status of any waitlist;

(d) The status and solvency of the homeowner recovery account under section 7 of this act; and

(e) Recommendations for any changes to the program, if deemed necessary by the department.

(2) By December 1, 2035, and each year thereafter, the department shall notify the

appropriate committees of the legislature, by submitting a report in accordance with RCW 43.01.036, if the department finds there is a significant waitlist of eligible applicants or otherwise finds there is insufficient funds in the homeowner recovery account to sustain the homeowner recovery program.

**Sec. 9.** RCW 43.79A.040 and 2022 c 244 s 3, 2022 c 206 s 8, 2022 c 183 s 16, and 2022 c 162 s 6 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the Washington career and college pathways innovation challenge program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the behavioral health loan repayment program account, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county ((enhanced)) 911 excise tax account, the county road administration board emergency loan account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the energy

facility site evaluation council account, the fair fund, the family and medical leave insurance account, the fish and wildlife federal lands revolving account, the natural resources federal lands revolving account, the food animal veterinarian conditional scholarship account, the forest health revolving account, the fruit and vegetable inspection account, the educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the homeowner recovery account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the Washington student loan account, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive 80 percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail



service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 10.** RCW 51.44.190 and 2017 3rd sp.s. c 11 s 4 are each amended to read as follows:

(1) The construction registration inspection account is created in the state treasury. All moneys, except fines and penalties, received or collected under the terms of chapters 18.27 and 70.87 RCW and under the terms of RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495 must be deposited into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account, not including moneys transferred to the general fund, may be used only to carry out the purposes of chapters 18.27 and 70.87 RCW and RCW 43.22.335 through 43.22.430 and 43.22.432 through 43.22.495.

(2) The department shall set the fees deposited in the account at a level that generates revenue that is as near as practicable to the amount of the appropriation to carry out the duties specified in this section.

(3) ~~((Until June 30, 2023, or))~~ On the last working day of the first month following each quarterly period, ~~((seven))~~ three and one-half percent of all revenues received into the account during the previous quarter from licenses, permits, and registrations, net of refunds paid to customers, must be transferred into the general fund.

NEW SECTION. **Sec. 11.** 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. 12.** Sections 3 through 9 of this act take effect July 1, 2024.

NEW SECTION. **Sec. 13.** Section 10 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2023."

On page 1, line 2 of the title, after "industry;" strike the remainder of the title and insert "amending RCW 18.27.010,

18.27.030, 18.27.040, 18.27.340, 18.27.400, and 51.44.190; reenacting and amending RCW 43.79A.040; adding new sections to chapter 18.27 RCW; providing effective dates; and declaring an emergency."

and the same is herewith transmitted.

Sarah Bannister, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1534 and advanced the bill, as amended by the Senate, to final passage.

Representatives Orwall and Robertson spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1534, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1534, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representative Ortiz-Self

SECOND SUBSTITUTE HOUSE BILL NO. 1534, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1106, with the following amendment(s): 1106-S.E AMS KING S3151.1; 1106-S.E AMS SALD S3052.1

On page 8, line 11, after "(2)(b)" insert "(ii), only for separation that was necessary because the care for a child or a vulnerable adult in the claimant's care is inaccessible,"

On page 4, line 10, after "2024" insert "and before July 8, 2029"

On page 11, after line 12, insert the following:

"NEW SECTION. Sec. 4. By November 1, 2028, and in compliance with RCW 43.01.036,

the employment security department must submit a report to the legislature that details the number of unemployment insurance benefit claims, the impact on the trust fund and employer experience ratings, and any trends for utilization by industries for claims allowed for separations on or after July 7, 2024, and before July 2, 2028, which were necessary because care for a child or a vulnerable adult in the claimant's care was inaccessible as provided in RCW 50.02.050."

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

On page 1, beginning on line 3 of the title, after "creating" strike all material through "section." and insert "new sections."

and the same are herewith transmitted.

Colleen Rust, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1106 and advanced the bill, as amended by the Senate, to final passage.

Representative Fosse spoke in favor of the passage of the bill.

Representative Robertson spoke against the passage of the bill.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1106, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1106, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 41; Absent, 0; Excused, 1

Voting Yea: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chandler, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Kloba, Lekanoff, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Rule, Ryu, Santos, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Barkis, Barnard, Caldier, Chambers, Chapman, Cheney, Christian, Connors, Corry, Couture, Dent, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Leavitt, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Sandlin, Schmick, Schmidt, Steele, Stokesbary, Volz, Walsh, Waters, Wilcox and Ybarra

Excused: Representative Ortiz-Self

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1106, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Friday, March 31, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1114, with the following amendment(s): 1114 AMS LAW S2327.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.860 and 2016 c 179 s 3 are each amended to read as follows:

(1) The sentencing guidelines commission is hereby created, located within the office of financial management. Except as provided in RCW 9.94A.875, the commission shall serve to advise the governor and the legislature as necessary on issues relating to adult and juvenile sentencing. The commission may meet, as necessary, to accomplish these purposes within funds appropriated.

(2) The commission consists of ~~((twenty))~~ 25 voting members, one of whom the governor shall designate as ~~((chairperson))~~ chair. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, or his or her designee, subject to confirmation by the senate.

(3) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management or designee, as an ex officio member;

(c) The chair of the indeterminate sentence review board, as an ex officio member;

(d) The head of the state agency, or the agency head's designee, having responsibility for juvenile corrections programs, as an ex officio member;

(e) Two prosecuting attorneys;

(f) Two attorneys with particular expertise in defense work;

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

(i) ~~((Four))~~ Five members of the public who are not prosecutors, defense attorneys, judges, or law enforcement officers, one of whom is a victim of crime, one of whom is a victim of crime or a crime victims' advocate, and one of whom has been formerly incarcerated in the state correctional system;

(j) One person who is an elected official of a county government, other than a prosecuting attorney or sheriff;

(k) One person who is an elected official of a city government;

(l) One person who is an administrator of juvenile court services;

(m) The chair of the state supreme court minority and justice commission or designee, as an ex officio member;

(n) One person representing the interests of tribes;

(o) One behavioral health professional with experience working in the criminal justice system; and

(p) One person with knowledge of and expertise in academic research in the field of criminology or sociology.

In making the appointments, the governor shall endeavor to assure that the commission

membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the superior court judges' association in respect to the members who are judges, of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer, of the Washington state association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, ~~((and))~~ of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services, and of the Washington state institute for public policy and the relevant departments of the Washington State University and University of Washington in respect to the member with knowledge of and expertise in academic research in the field of criminology or sociology.

(4) (a) ~~((All))~~ Except as provided in (b) of this subsection, all voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed.

(b) The governor shall stagger the initial terms of the members appointed under subsection (3) ~~((j), (k), and (l))~~ (n), (o), and (p) of this section by appointing one of them for a term of one year, one of them for a term of two years, and one of them for a term of three years.

(5) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(6) The members of the commission may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members may be reimbursed by their respective houses as provided under RCW 44.04.120. Except for the reimbursement of travel expenses, members shall not be compensated."

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "and amending RCW 9.94A.860."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1114 and advanced the bill, as amended by the Senate, to final passage.

Representatives Mosbrucker and Goodman spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1114, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1114, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representative Ortiz-Self

HOUSE BILL NO. 1114, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Friday, April 7, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1168, with the following amendment(s): 1168-S2 AMS ENGR S2990.E

Strike everything after the enacting clause and insert the following:

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

(1) Fetal alcohol spectrum disorders are lifelong physical, developmental, behavioral, and intellectual disabilities caused by prenatal alcohol exposure;

(2) According to the federal centers for disease control and prevention, fetal alcohol spectrum disorders affect as many as one in 20 people in the United States;

(3) The health care authority estimates that one percent of births, or approximately 870 children each year, are born with fetal alcohol spectrum disorders;

(4) In addition to alcohol use, other substances consumed during pregnancy may result in prenatal substance exposure affecting the physical, developmental, behavioral, and intellectual abilities of the exposed child;

(5) Washington has limited diagnostic capacity and currently lacks the capacity to

diagnose and treat every child who needs support and treatment due to prenatal substance exposure;

(6) Without appropriate treatment and supports, children born with fetal alcohol spectrum disorders and other prenatal substance disorders are likely to experience adverse outcomes. According to current statistics, these children face adverse outcomes such as:

(a) 61 percent of children with fetal alcohol spectrum disorders are suspended or expelled from school by age 12;

(b) 90 percent of persons with fetal alcohol spectrum disorders develop comorbid mental health conditions; and

(c) 60 percent of youth with fetal alcohol spectrum disorders are involved in the justice system;

(7) Untreated and unsupported prenatal substance exposure results in higher costs for the state and worse outcomes for children and their families;

(8) Investing in prevention and earlier intervention, including diagnostic capacity, treatment, and services for children and supports for families and caregivers will improve school outcomes; and

(9) Effective prenatal substance exposure response requires effective and ongoing cross-agency strategic planning and coordination.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) By January 1, 2024, the authority, on behalf of clients or potential clients of the department of children, youth, and families as described in this subsection, shall contract with a provider with expertise in comprehensive prenatal substance exposure treatment and family supports to offer services to children over the age of three and families who are or have been involved in the child welfare system or who are at risk of becoming involved in the child welfare system. This contract shall maximize the number of families that can be served through referrals by authority employees and other community partners in order to keep families together, reduce the number of placements, and prevent adverse outcomes for impacted children.

(2) By January 1, 2025, the authority, on behalf of clients or potential clients of the department of children, youth, and families as described in this subsection, shall contract with up to three providers across the state, in addition to the contracted provider in subsection (1) of this section, to offer comprehensive treatment services for prenatal substance exposure and family supports for children who were prenatally exposed to substances and who are, or have been, involved in the child welfare system.

(3) Comprehensive treatment and family supports must be trauma-informed and may include:

(a) Occupational, speech, and language therapy;

(b) Behavioral health counseling and caregiver counseling;

(c) Sensory processing support;

(d) Educational advocacy, psychoeducation, social skills support, and groups;

(e) Linkages to community resources; and

(f) Family supports and education, including the programs for parents, caregivers, and families recommended by the federal centers for disease control and prevention.

(4) The authority shall contract with the provider referenced in subsection (1) of this section to support the providers under contract in subsection (2) of this section by:

(a) Creating education and training programs for providers working with children who had prenatal substance exposure; and

(b) Offering ongoing coaching and support in creating a safe and healing environment, free from judgment, where families are supported through the challenges of care for children with prenatal substance exposure.

(5) The authority, in collaboration with the department of children, youth, and families, shall work with the contracted providers and families to collect relevant outcome data and provide a report on the expansion of services under the contracts and the outcomes experienced by persons receiving services under this section. The authority shall submit the report to the legislature with any recommendations related to improving availability of and access to services and ways to improve outcomes by June 1, 2028.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.24 RCW to read as follows:

(1) By June 1, 2024, the authority shall submit to the legislature recommendations on ways to increase access to diagnoses, treatment, services, and supports for children who were exposed to alcohol or other substances during pregnancy and their families and caregivers. In creating the recommendations, the authority shall consult with service providers, medical professionals with expertise in diagnosing and treating prenatal substance exposure, families of children who were exposed to alcohol or other substances during pregnancy, communities affected by prenatal substance exposure, and advocates.

(2) The recommendations adopted under subsection (1) of this section shall, at a minimum, address:

(a) Increasing the availability of evaluation and diagnosis services for children and youth for fetal alcohol spectrum disorders and other prenatal substance disorders, including assuring an adequate payment rate for the interdisciplinary team required for diagnosis and developing sufficient capacity in rural and urban areas so that every child is able to access diagnosis services; and

(b) Increasing the availability of treatment for fetal alcohol spectrum disorders and other prenatal substance disorders for all children and youth including all treatments and services recommended by the federal centers for disease control and prevention. The

authority shall review all barriers to accessing treatment and make recommendations on removing those barriers, including recommendations related to the definition of medical necessity, prior authorization requirements for diagnosis and treatment services, and limitations of treatment procedure codes and insurance coverage.

**NEW SECTION. Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the authority shall contract with a statewide nonprofit entity with expertise in fetal alcohol spectrum disorders and experience in supporting parents and caregivers to offer free support groups for individuals living with fetal alcohol spectrum disorders and their parents and caregivers.

**Sec. 5.** RCW 71.24.610 and 2018 c 201 s 4049 are each amended to read as follows:

The authority, the department of social and health services, the department (~~of health~~), the department of corrections, the department of children, youth, and families, and the office of the superintendent of public instruction shall execute an interagency agreement to ensure the coordination of identification, prevention, and intervention programs for children who have fetal alcohol exposure and other prenatal substance exposures, and for women who are at high risk of having children with fetal alcohol exposure or other prenatal substance exposures.

The interagency agreement shall provide a process for community advocacy groups to participate in the review and development of identification, prevention, and intervention programs administered or contracted for by the agencies executing this agreement.

**NEW SECTION. Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "exposure;" strike the remainder of the title and insert "amending RCW 71.24.610; adding a new section to chapter 41.05 RCW; adding new sections to chapter 71.24 RCW; and creating new sections."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1168 and advanced the bill, as amended by the Senate, to final passage.

Representatives Simmons and Schmick spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1168, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1168, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representative Ortiz-Self

SECOND SUBSTITUTE HOUSE BILL NO. 1168, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Saturday, April 8, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1170, with the following amendment(s): 1170-S2.E AMS SHOR S3054.1

On page 7, after line 25, insert the following:

**"NEW SECTION. Sec. 8.** A new section is added to chapter 70A.05 RCW to read as follows:

Nothing in this chapter creates any new or additional regulatory authority for any state agency."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1170 and advanced the bill, as amended by the Senate, to final passage.

Representatives Street and Dye spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1170, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1170, as amended by the Senate,

and the bill passed the House by the following vote: Yeas, 87; Nays, 10; Absent, 0; Excused, 1

Voting Yea: Representatives Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Connors, Cortes, Couture, Davis, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, Mena, Morgan, Mosbrucker, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Abbarno, Christian, Corry, Dent, Graham, Jacobsen, McEntire, Orcutt, Volz and Walsh

Excused: Representative Ortiz-Self

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1170, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1207, with the following amendment(s): 1207-S AMS EDU S2472.2

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction shall develop, and periodically update, model student handbook language that includes information about policies and complaint procedures related to discrimination, including sexual harassment and addressing transgender students, and information about policies and complaint procedures related to harassment, intimidation, and bullying, as well as the overlap between the policies and complaint procedures. The model student handbook language must also include a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds. The model student handbook language must be aligned with existing requirements in state law including chapters 28A.640 and 28A.642 RCW and RCW 28A.600.477 and 28A.600.510. The model student handbook language must be jointly developed with the Washington state school directors' association, and in consultation with the office of the education ombuds. The model student handbook language must be posted publicly on the office of the superintendent of public instruction's website beginning July 1, 2024.

(2) Beginning with the 2024-25 school year, each school district must include the model student handbook language developed under subsection (1) of this section in any student, parent, employee, and volunteer handbook that it or one of its schools publishes and on the school district's website, and any school's website, if a

school or the school district maintains a website. If a school district neither publishes a handbook nor maintains a website, it must provide the model student handbook language developed under subsection (1) of this section to each student, parent, employee, and volunteer at least annually.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.642 RCW to read as follows:

(1) Each school district shall designate one person in the school district as the primary contact regarding school district compliance with this chapter. In addition to any other duties required by law and the school district, the primary contact must:

(a) Ensure that complaints of discrimination communicated to the school district are promptly investigated and resolved; and

(b) Communicate with the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477, and the primary contact regarding the school district's policies and procedures related to transgender students under RCW 28A.642.080.

(2) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477 and the primary contact regarding the school district's policy and procedure related to transgender students under RCW 28A.642.080.

**Sec. 3.** RCW 28A.640.020 and 1994 c 213 s 1 are each amended to read as follows:

(1) The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(a) Specifically with respect to public school employment, all schools shall be required to:

(i) Maintain credential requirements for all personnel without regard to sex;

(ii) Make no differentiation in pay scale on the basis of sex;

(iii) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed;

(iv) Provide the same opportunities for advancement to males and females; and

(v) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

(b) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access

to all career and vocational opportunities to students without regard to sex.

(c) Specifically with respect to recreational and athletic activities, they shall be offered to all students without regard to sex. Schools may provide separate teams for each sex. Schools which provide the following shall do so with no disparities based on sex: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity and awards; scheduling of games and practice times including use of courts, gyms, and pools: PROVIDED, That such scheduling of games and practice times shall be determined by local administrative authorities after consideration of the public and student interest in attending and participating in various recreational and athletic activities. Each school which provides showers, toilets, or training room facilities for athletic purposes shall provide comparable facilities for both sexes. Such facilities may be provided either as separate facilities or shall be scheduled and used separately by each sex.

The superintendent of public instruction shall also be required to develop a student survey to distribute every three years to each local school district in the state to determine student interest for male/female participation in specific sports.

(d) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to sex: PROVIDED, That separation is permitted within any class during sessions on sex education or gym classes.

(e) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audiovisual materials, they shall be required to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: PROVIDED, That this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes.

(2)(a) By December 31, 1994, the superintendent of public instruction shall develop criteria for use by school districts in developing sexual harassment policies as required under (b) of this subsection. The criteria shall address the subjects of grievance procedures, remedies to victims of sexual harassment, disciplinary actions against violators of the policy, and other subjects at the discretion of the superintendent of public instruction. Disciplinary actions must conform with collective bargaining agreements and state and federal laws. The superintendent of public instruction also shall supply sample policies to school districts upon request.

(b) By June 30, 1995, every school district shall adopt and implement a written policy concerning sexual harassment. The policy shall apply to all school district employees, volunteers, parents, and

students, including, but not limited to, conduct between students.

(c) School district policies on sexual harassment shall be reviewed by the superintendent of public instruction considering the criteria established under (a) of this subsection as part of the monitoring process established in RCW 28A.640.030.

(d) The school district's sexual harassment policy shall be conspicuously posted throughout each school building, and provided to each employee. A copy of the policy shall appear in any publication of the school or school district setting forth the rules, regulations, procedures, and standards of conduct for the school or school district. This requirement as it relates to students, parents, and guardians may be satisfied by using the model student handbook language in section 1 of this act.

(e) Each school shall develop a process for discussing the district's sexual harassment policy. The process shall ensure the discussion addresses the definition of sexual harassment and issues covered in the sexual harassment policy.

(f) "Sexual harassment" as used in this section means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature if:

(i) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education or employment;

(ii) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education or employment; or

(iii) That conduct or communication has the purpose or effect of substantially interfering with an individual's educational or work performance, or of creating an intimidating, hostile, or offensive educational or work environment.

**Sec. 4.** RCW 28A.600.477 and 2019 c 194 s 1 are each amended to read as follows:

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary a policy and procedure prohibiting harassment, intimidation, and bullying of any student and that, at a minimum, incorporates the model policy and procedure described in subsection (3) of this section.

(b) School districts must share the policy and procedure prohibiting harassment, intimidation, and bullying with parents or guardians, students, volunteers, and school employees in accordance with the rules adopted by the office of the superintendent of public instruction. This requirement as it relates to students, parents, and guardians may be satisfied by using the model student handbook language in section 1 of this act.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying. In addition to other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policy and procedure prohibiting harassment, intimidation, and bullying;

(B) Receive copies of all formal and informal complaints relating to harassment, intimidation, or bullying;

(C) Communicate with the school district employees responsible for monitoring school district compliance with chapter 28A.642 RCW prohibiting discrimination in public schools, and the primary contact regarding the school district's policies and procedures related to transgender students under RCW 28A.642.080; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on the policy and procedure prohibiting harassment, intimidation, and bullying.

(ii) The primary contact from each school district must attend at least one training class as provided in subsection (4) of this section, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policies and procedures relating to transgender students under RCW 28A.642.080 and the primary contact regarding school district compliance with nondiscrimination laws under section 1 of this act.

(2) School districts are encouraged to adopt and update the policy and procedure prohibiting harassment, intimidation, and bullying through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model policy and procedure prohibiting harassment, intimidation, and bullying.

(b) Each school district must provide to the office of the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials prohibiting harassment, intimidation, and bullying to be posted on the office of the superintendent of public instruction's school safety center website, and must also provide the office of the superintendent of public instruction with a link to the school district's website for further information. The school district's primary contact for harassment, intimidation, and bullying issues must annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(c) The office of the superintendent of public instruction must publish on its website, with a link to the school safety center website, the revised and updated model policy and procedure prohibiting harassment, intimidation, and bullying, along with training and instructional materials on the components that must be included in any school district policy and procedure prohibiting harassment,

intimidation, and bullying. By September 1, 2019, the office of the superintendent of public instruction must adopt rules regarding school districts' communication of the policy and procedure prohibiting harassment, intimidation, and bullying to parents, students, employees, and volunteers.

(4) By December 31, 2020, the office of the superintendent of public instruction must develop a statewide training class for those people in each school district who act as the primary contact regarding the policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (1) of this section. The training class must be offered on an annual basis by educational service districts in collaboration with the office of the superintendent of public instruction. The training class must be based on the model policy and procedure prohibiting harassment, intimidation, and bullying as provided in subsection (3) of this section and include materials related to hazing and the Washington state school directors' association model transgender student policy and procedure as provided in RCW 28A.642.080.

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

(a) "Electronic" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

(b)(i) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act including, but not limited to, one shown to be motivated by any characteristic in RCW 28A.640.010 and 28A.642.010, or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(A) Physically harms a student or damages the student's property;

(B) Has the effect of substantially interfering with a student's education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

(ii) Nothing in (b)(i) of this subsection requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

**Sec. 5.** RCW 28A.642.080 and 2019 c 194 s 2 are each amended to read as follows:

(1)(a) By January 31, 2020, each school district must adopt or amend if necessary policies and procedures that, at a minimum, incorporate all the elements of the model transgender student policy and procedure described in subsection (3) of this section.

(b) School districts must share the policies and procedures that meet the requirements of (a) of this subsection with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the office of the superintendent of public instruction. This



requirement as it relates to students, parents, and guardians may be satisfied by using the model student handbook language in section 1 of this act.

(c)(i) Each school district must designate one person in the school district as the primary contact regarding the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection. In addition to any other duties required by law and the school district, the primary contact must:

(A) Ensure the implementation of the policies and procedures relating to transgender students that meet the requirements of (a) of this subsection;

(B) Receive copies of all formal and informal complaints relating to transgender students;

(C) Communicate with the school district employees responsible for monitoring school district compliance with this chapter, and the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477; and

(D) Serve as the primary contact between the school district, the office of the education ombuds, and the office of the superintendent of public instruction on policies and procedures relating to transgender students that meet the requirements of (a) of this subsection.

(ii) The primary contact from each school district must attend at least one training class as provided in RCW 28A.600.477, once this training is available.

(iii) The primary contact may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477 and the primary contact regarding school district compliance with nondiscrimination laws under section 1 of this act.

(2) As required by the office of the superintendent of public instruction, each school district must provide to the office of the superintendent of public instruction its policies and procedures relating to transgender students that meet the requirements of subsection (1)(a) of this section.

(3)(a) By September 1, 2019, and periodically thereafter, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction to develop and update a model transgender student policy and procedure.

(b) The elements of the model transgender student policy and procedure must, at a minimum: Incorporate the office of the superintendent of public instruction's rules and guidelines developed under RCW 28A.642.020 to eliminate discrimination in Washington public schools on the basis of gender identity and expression; address the unique challenges and needs faced by transgender students in public schools; and describe the application of the model policy and procedure prohibiting harassment, intimidation, and bullying, required under RCW 28A.600.477, to transgender students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's website at no cost to school districts.

(4)(a) By December 31, 2020, the office of the superintendent of public instruction must develop online training material available to all school staff based on the model transgender student policy and procedure described in subsection (3) of this section and the office of the superintendent of public instruction's rules and guidance as provided under this chapter.

(b) The online training material must describe the role of school district primary contacts for monitoring school district compliance with this chapter prohibiting discrimination in public schools, RCW 28A.600.477 related to the policies and procedures prohibiting harassment, intimidation, and bullying, and this section related to policies and procedures relating to transgender students.

(c) The online training material must include best practices for policy and procedure implementation and cultural change that are guided by school district experiences.

(d) The office of the superintendent of public instruction must annually notify school districts of the availability of the online training material.

**Sec. 6.** RCW 28A.600.510 and 2022 c 222 s 2 are each amended to read as follows:

(1) Beginning August 1, 2023, public schools must:

(a) Provide students and their parents or guardians with a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds at the time of initial enrollment or admission; and

(b) Either: (i) Include on their website a description of the services available through the office of the education ombuds and a link to the website of the office of the education ombuds; or (ii) provide a description of the services available through the office of the education ombuds and the contact information for the office of the education ombuds in existing materials that are shared annually with families, students, and school employees, such as welcome packets, orientation guides, and newsletters. This requirement as it relates to students and families may be satisfied by using the model student handbook language in section 1 of this act.

(2) Public schools are encouraged to comply with both subsection (1)(b)(i) and (ii) of this section.

(3) By July 1, 2022, the office of the education ombuds must develop a template of the information described in subsection (1) of this section. The template must be translated into Spanish and into other languages as resources allow. The template must be made available upon request and updated as needed.

(4) For the purposes of this section, "public schools" has the same meaning as in RCW 28A.150.010.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) The legislature recognizes that public schools have the authority to immediately remove a student from school if the student poses an immediate and continuing danger to other students or to school staff, or if the student poses an immediate and continuing threat of material and substantial disruption of the education process. The legislature acknowledges that emergency expulsion is limited to 10 consecutive school days, the school must provide an opportunity for the student to receive educational services during the emergency expulsion, and both the emergency expulsion and any suspension or expulsion that the emergency expulsion is converted to can be appealed. However, the legislature finds that emergency expulsion tarnishes a student's reputation and self-image, which can result in school staff, fellow students, or the student's families making assumptions about the student, and, in some cases, these assumptions result in harassment, intimidation, or bullying of the student. Therefore, the legislature intends to discontinue the use of the prejudicial term "emergency expulsion," and replace it with the term "emergency removal," which is a more accurate description of the temporary removal of a student from school to assess and properly respond to an emergent situation involving the student.

(2) As soon as possible after the effective date of this section, the office of the superintendent of public instruction must publish a bulletin to notify school districts and public schools that the term "emergency removal" must be used instead of the term "emergency expulsion" in the context of student discipline and as required by RCW 28A.300.042 and 28A.600.015. The legislature's intent as described in subsection (1) of this section must be included in the bulletin. The bulletin must also include guidance about student discipline data collection and historical data comparison.

(3) A student who was emergency expelled between September 1, 2019, and the effective date of this section may request that any reference to "emergency expulsion" in the student's education record be revised to "emergency removal."

**Sec. 8.** RCW 28A.300.042 and 2016 c 72 s 501 are each amended to read as follows:

(1) Beginning with the 2017-18 school year, and using the phase-in provided in subsection (2) of this section, the superintendent of public instruction must collect and school districts must submit all student-level data using the United States department of education 2007 race and ethnicity reporting guidelines, including the subracial and subethnic categories within those guidelines, with the following modifications:

(a) Further disaggregation of the Black category to differentiate students of African origin and students native to the United States with African ancestors;

(b) Further disaggregation of countries of origin for Asian students;

(c) Further disaggregation of the White category to include subethnic categories for Eastern European nationalities that have significant populations in Washington; and

(d) For students who report as multiracial, collection of their racial and ethnic combination of categories.

(2) Beginning with the 2017-18 school year, school districts shall collect student-level data as provided in subsection (1) of this section for all newly enrolled students, including transfer students. When the students enroll in a different school within the district, school districts shall resurvey the newly enrolled students for whom subracial and subethnic categories were not previously collected. School districts may resurvey other students.

(3) All student data-related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

(4) All student data-related reports prepared by the superintendent of public instruction regarding student suspensions and expulsions as required under this title are subject to disaggregation by subgroups including:

- (a) Gender;
- (b) Foster care;
- (c) Homeless, if known;
- (d) School district;
- (e) School;
- (f) Grade level;
- (g) Behavior infraction code, including:
  - (i) Bullying;
  - (ii) Tobacco;
  - (iii) Alcohol;
  - (iv) Illicit drug;
  - (v) Fighting without major injury;
  - (vi) Violence without major injury;
  - (vii) Violence with major injury;
  - (viii) Possession of a weapon; and
  - (ix) Other behavior resulting from a short-term or long-term suspension, expulsion, or interim alternative education setting intervention;
- (h) Intervention applied, including:
  - (i) Short-term suspension;
  - (ii) Long-term suspension;
  - (iii) Emergency (~~expulsion~~) removal;
  - (iv) Expulsion;
  - (v) Interim alternative education settings;
  - (vi) No intervention applied; and
  - (vii) Other intervention applied that is not described in this subsection (4)(h);
- (i) Number of days a student is suspended or expelled, to be counted in half or full days; and
- (j) Any other categories added at a future date by the data governance group.

(5) All student data-related reports required of the superintendent of public instruction regarding student suspensions and expulsions as required in RCW 28A.300.046 are subject to cross-tabulation at a minimum by the following:

(a) School and district;

(b) Race, low income, special education, transitional bilingual, migrant, foster care, homeless, students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794), and categories to be added in the future;

(c) Behavior infraction code; and

(d) Intervention applied.

(6) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data as required under this section, and the office of the superintendent of public instruction shall modify the statewide student data system as needed. The office of the superintendent of public instruction shall also incorporate training for school staff on best practices for collection of data on student race and ethnicity in other training or professional development related to data provided by the office.

**Sec. 9.** RCW 28A.600.015 and 2016 c 72 s 105 are each amended to read as follows:

(1) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ~~(ten)~~ 10 consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion. An expulsion or suspension of a student may not be for an indefinite period of time.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ~~(ten)~~ 10 consecutive school days.

(3) Emergency ~~(expulsions)~~ removals must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school. Notice and due process rights must be provided when an emergency ~~(expulsion)~~ removal is converted to another form of corrective action.

(4) School districts may not impose long-term suspension or expulsion as a form of discretionary discipline.

(5) Any imposition of discretionary and nondiscretionary discipline is subject to

the bar on suspending the provision of educational services pursuant to subsection (8) of this section.

(6) As used in this chapter, "discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and this section, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

(7) Except as provided in RCW 28A.600.420, school districts are not required to impose long-term suspension or expulsion for behavior that constitutes a violation or offense listed under subsection (6)(a) through (d) of this section and should first consider alternative actions.

(8) School districts may not suspend the provision of educational services to a student as a disciplinary action. A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(9) Nothing in this section creates any civil liability for school districts, or creates a new cause of action or new theory of negligence against a school district board of directors, a school district, or the state."

On page 1, line 6 of the title, after "term;" strike the remainder of the title and insert "amending RCW 28A.640.020, 28A.600.477, 28A.642.080, 28A.600.510, 28A.300.042, and 28A.600.015; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.642 RCW; and adding a new section to chapter 28A.600 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1207 and advanced the bill, as amended by the Senate, to final passage.

Representatives Senn and Rude spoke in favor of the passage of the bill.

#### MOTION

On motion of Representative Ramel, Representative Chopp was excused.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1207, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1207, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 64; Nays, 32; Absent, 0; Excused, 2

Voting Yea: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chambers, Chandler, Chapman, Cheney, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Harris, Kloba, Kretz, Leavitt, Lekano, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Rude, Rule, Ryu, Santos, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Waters, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Barkis, Barnard, Caldier, Christian, Connors, Cory, Couture, Dent, Dye, Goehner, Graham, Griffey, Hutchins, Jacobsen, Klicker, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Sandlin, Schmick, Schmidt, Steele, Stokesbary, Volz, Walsh, Wilcox and Ybarra

Excused: Representatives Chopp and Ortiz-Self

SUBSTITUTE HOUSE BILL NO. 1207, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Friday, March 31, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1222, with the following amendment(s): 1222-S.E AMS HLTC S2344.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For nongrandfathered group health plans other than small group health plans issued or renewed on or after January 1, 2024, a health carrier shall include coverage for hearing instruments, including bone conduction hearing devices. This section does not include coverage of over-the-counter hearing instruments.

(2) Coverage shall also include the initial assessment, fitting, adjustment, auditory training, and ear molds as necessary to maintain optimal fit. Coverage of the services in this subsection shall include services for enrollees who intend to obtain or have already obtained any hearing instrument, including an over-the-counter hearing instrument.

(3) A health carrier shall provide coverage for hearing instruments as provided in subsection (1) of this section at no less than \$3,000 per ear with hearing loss every 36 months.

(4) The services and hearing instruments covered under this section are not subject to the enrollee's deductible unless the health plan is offered as a qualifying

health plan for a health savings account. For such a qualifying health plan, the carrier may apply a deductible to coverage of the services covered under this section only at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from the enrollee's health savings account under internal revenue service laws and regulations.

(5) Coverage for a minor under 18 years of age shall be available under this section only after the minor has received medical clearance within the preceding six months from:

(a) An otolaryngologist for an initial evaluation of hearing loss; or

(b) A licensed physician, which indicates there has not been a substantial change in clinical status since the initial evaluation by an otolaryngologist.

(6) For the purposes of this section:

(a) "Hearing instrument" has the same meaning as defined in RCW 18.35.010.

(b) "Over-the-counter hearing instrument" has the same meaning as "over-the-counter hearing aid" in 21 C.F.R. Sec. 800.30 as of December 28, 2022.

**Sec. 2.** RCW 41.05.830 and 2018 c 159 s 1 are each amended to read as follows:

(1) Subject to appropriation, a health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2019, must include coverage for hearing instruments. Coverage must include a new hearing instrument every five years and services and supplies such as the initial assessment, fitting, adjustment, and auditory training.

(2) The hearing instrument must be recommended by a licensed audiologist, hearing aid specialist, or a licensed physician or osteopathic physician who specializes in otolaryngology and dispensed by a licensed audiologist, hearing aid specialist, or a licensed physician or osteopathic physician who specializes in otolaryngology.

(3) For the purposes of this section, "hearing instrument" and "hearing aid specialist" have the same meaning as defined in RCW 18.35.010.

(4) This section expires December 31, 2023.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to public employees and their covered dependents under this chapter issued or renewed on or after January 1, 2024, is subject to section 1 of this act."

On page 1, at the beginning of line 2 of the title strike the remainder of the title and insert "amending RCW 41.05.830; adding a new section to chapter 48.43 RCW; adding a new section to chapter 41.05 RCW; and providing an expiration date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1222 and advanced the bill, as amended by the Senate, to final passage.

Representative Orwall spoke in favor of the passage of the bill.

Representative Schmick spoke against the passage of the bill.

**FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1222, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1222, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 88; Nays, 8; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Connors, Corry, Cortes, Couture, Davis, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, Mena, Morgan, Mosbrucker, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Christian, Dent, Jacobsen, McClintock, McEntire, Orcutt, Schmick and Walsh

Excused: Representatives Chopp and Ortiz-Self

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1222, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1289, with the following amendment(s): 1289-S AMS HEWD S2187.2

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 28B.145.010 and 2022 c 211 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the opportunity scholarship board.

(2) "Council" means the student achievement council.

(3) "Eligible advanced degree program" means a health professional degree program beyond the baccalaureate level and includes graduate and professional degree programs.

(4) "Eligible county" has the same meaning as "rural county" as defined in RCW 82.14.370 and also includes any county that

shares a common border with Canada and has a population of over 125,000.

(5) "Eligible education programs" means high employer demand and other programs of study as determined by the board.

(6) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the council and the state board for community and technical colleges.

(7) "Eligible school district" means a school district of the second class as identified in RCW 28A.300.065(2).

(8) (a) "Eligible student" means a resident student who:

(i) (A) Received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree;

(B) Received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(C) Received his or her high school diploma or equivalent and has been accepted at an institution of higher education into a professional-technical certificate or degree program in an eligible education program; or

(D) Has been accepted at an institution of higher education into an eligible advanced degree program that leads to credentials in health professions;

(ii) Declares an intention to obtain a professional-technical certificate, professional-technical degree, baccalaureate degree, or an advanced degree; and

(iii) Has a family income at or below 125 percent of the state median family income at the time the student applies for an opportunity scholarship. For the advanced degree program, family income may be greater than 125 percent if the eligible student can demonstrate financial need through other factors such as a history of prior household income, income loss caused by entering the advanced degree program, level of student debt at application and annually thereafter, or other factors determined by the program.

(b) To remain eligible for scholarship funds under the opportunity scholarship program the student must meet satisfactory academic progress toward completion of an eligible program as determined by the office of student financial assistance in the Washington college grant program under chapter 28B.92 RCW.

(9) "Gift aid" means financial aid received from the federal Pell grant, the Washington college grant program in chapter 28B.92 RCW, the college bound scholarship program in chapter 28B.118 RCW, the opportunity grant program in chapter 28B.50 RCW, or any other state grant, scholarship, or worker retraining program that provides funds for educational purposes with no obligation of repayment. "Gift aid" does not

include student loans, work-study programs, the basic food employment and training program administered by the department of social and health services, or other employment assistance programs that provide job readiness opportunities and support beyond the costs of tuition, books, and fees.

(10) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(11) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(12) "Private sources," "private funds," "private contributions," or "private sector contributions" means donations from private organizations, corporations, federally recognized Indian tribes, municipalities, counties, and other sources, but excludes state dollars.

(13) "Professional-technical certificate" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education or an eligible registered apprenticeship program under chapter 28B.92 RCW.

(14) "Professional-technical degree" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education or an eligible registered apprenticeship program under chapter 28B.92 RCW.

(15) "Program administrator" means ((a))one or more private nonprofit corporations registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code.

(16) "Resident student" means a student meeting the requirements under RCW 28B.92.200(5)(c) as defined in the Washington college grant program.

(17) "Rural jobs program" means the rural county high employer demand jobs program created in this chapter.

**Sec. 2.** RCW 28B.145.020 and 2019 c 406 s 64 are each amended to read as follows:

(1) The opportunity scholarship board is created. The board consists of eleven members:

(a) Six members appointed by the governor. For three of the six appointments, the governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) Five foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health care, information technology, engineering, agriculture, and others, as well as philanthropy. The foundation or business and industry representatives shall be selected from among nominations provided by the private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or

lists from which the governor shall select these representatives.

(2) Board members shall hold their offices for a term of four years from the first day of September and until their successors are appointed. No more than the terms of two members may expire simultaneously on the last day of August in any one year.

(3) The members of the board shall elect one of the business and industry representatives to serve as chair.

(4) Seven members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose office has become vacant or expired.

(5) The board shall be staffed by ((a))one or more program administrators, under contract with the board and the council. The board may cause one or more tax-exempt nonprofit corporations to be created, organized, and operated exclusively to perform some or all of the program administrator duties under this act. The board and council may contract directly with any such nonprofit corporation.

(6) The purpose of the board is to provide oversight and guidance for the opportunity expansion program, the opportunity scholarship program, and the rural jobs program, in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter, including but not limited to determining eligible education programs and eligible advanced degree programs for purposes of the opportunity scholarship program and rural jobs program. In determining eligible advanced degree programs, the board shall consider advanced degree programs that lead to credentials in health professions that include, but are not limited to, primary care, dental care, behavioral health, and public health. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The board may report to the governor and the appropriate committees of the legislature with recommendations as to:

(a) Whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program;

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high-technology research and development tax credit under RCW 82.32.800; and

(c) Whether the program should include a loan repayment or low-interest or no-interest loan component for the advanced degree portion of the program.

**Sec. 3.** RCW 28B.145.040 and 2019 c 406 s 66 are each amended to read as follows:

(1) The opportunity scholarship program is established.

(2) The purpose of this scholarship program is to provide scholarships that will help low and middle-income Washington residents earn professional-technical certificates, professional-technical degrees, baccalaureate degrees in high employer demand and other programs of study, and advanced degrees in health professions, and encourage them to remain in the state to work. The program must be designed for students starting professional-technical certificate or degree programs, students starting at two-year institutions of higher education and intending to transfer to four-year institutions of higher education, students starting at four-year institutions of higher education, and students enrolled in eligible advanced degree programs.

(3) The opportunity scholarship board shall determine which programs of study, including but not limited to high employer demand programs, are eligible for purposes of the opportunity scholarship. For eligible advanced degree programs, the board shall limit scholarships to eligible students enrolling in programs that lead to credentials in health professions.

(4)(a) The source of funds for the program shall be a combination of private grants and contributions and state matching funds. A state match may be earned under this section for private contributions made on or after June 6, 2011.

~~(b) ((The state match must be based on donations and pledges received as))~~ (i) The state must provide an annual appropriation for a state match, on an equal dollar basis, not to exceed \$50,000,000 per fiscal year.

(ii) Appropriations for the state match in the biennial omnibus operating appropriations act must be based on estimated donations and pledges for those fiscal years as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020.

(iii) Annually in the supplemental omnibus operating appropriations act, the state match must be adjusted to donations received and estimated pledges committed for the current fiscal biennium as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Additionally, the state match for the current fiscal year must be adjusted to reflect the excess or deficit between donations and pledges actually received in the prior fiscal year and the state match provided in the prior fiscal year.

(iv) The purpose of this subsection (4)(b) is to ensure the predictable treatment of the program in the budget process by clarifying the calculation process of the state match required by this section and ensuring the program is budgeted at maintenance level.

~~((c) A state match, up to a maximum of fifty million dollars annually, shall be~~

~~provided beginning the later of January 1, 2014, or January 1st next following the end of the fiscal year in which collections of state retail sales and use tax, state business and occupation tax, and state public utility tax exceed, by ten percent the amounts collected from these tax resources in the fiscal year that ended June 30, 2008, as determined by the department of revenue.))~~

**Sec. 4.** RCW 28B.145.100 and 2022 c 211 s 3 are each amended to read as follows:

(1)(a) The rural county high employer demand jobs program is created to meet the workforce needs of business and industry in rural counties by assisting students in earning certificates, associate degrees, or other industry-recognized credentials necessary for employment in high employer demand fields.

(b) Subject to the requirements of this section, the rural jobs program provides selected students scholarship funds and support services, as determined by the board, to help students meet their eligible expenses when they enroll in a community or technical college program that prepares them for high employer demand fields.

(c) The source of funds for the rural jobs program shall be a combination of private donations, grants, and contributions and state matching funds.

~~(d) The state ((match must be based on donations and pledges received))~~ must provide an annual appropriation for the state match, on an equal dollar basis, not to exceed \$1,000,000 each fiscal biennium.

(i) Appropriations for the state match in the biennial omnibus operating appropriations act must be based on estimated donations and pledges for those fiscal years as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020.

(ii) Annually in the supplemental omnibus operating appropriations act, the state match must be adjusted to donations received and estimated pledges committed for the current fiscal biennium as reported by the board to the office of financial management as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Additionally, the state match for the current fiscal year must be adjusted to reflect the excess or deficit between donations and pledges actually received in the prior fiscal year and the state match provided in the prior fiscal year.

(iii) The purpose of this subsection (1)(d) is to ensure the predictable treatment of the program in the budget process by clarifying the calculation process of the state match required by this section and to ensure the program is budgeted at maintenance level.

(2) The program administrator has the duties and responsibilities provided under this section, including but not limited to:

(a) Publicize the rural jobs program and conducting outreach to eligible counties;

(b) In consultation with the state board for community and technical colleges, any interested community or technical college located in an eligible county, and the county's workforce development council, identify high employer demand fields within the eligible counties. When identifying high employer demand fields, the board must consider:

(i) County-specific employer demand reports issued by the employment security department or the list of statewide high-demand programs for secondary career and technical education established under RCW 28A.700.020; and

(ii) The ability and capacity of the community and technical college to meet the needs of qualifying students and industry in the eligible county;

(c) Develop and implement an application, selection, and notification process for awarding rural jobs program scholarship funds. In making determinations on scholarship recipients, the board shall use county-specific employer high-demand data;

(d) Determine the annual scholarship fund amounts to be awarded to selected students;

(e) Distribute funds to selected students;

(f) Notify institutions of higher education of the rural jobs program recipients who will attend their institutions of higher education and inform them of the scholarship fund amounts and terms of the awards; and

(g) Establish and manage an account as provided under RCW 28B.145.110 to receive donations, grants, contributions from private sources, and state matching funds, and from which to disburse scholarship funds to selected students.

(3) To be eligible for scholarship funds under the rural jobs program, a student must:

(a) Either:

(i) Be a resident of an eligible county;

(ii) Have attended and graduated from a school in an eligible school district; or

(iii) Be enrolled in either a community or technical college established under chapter 28B.50 RCW located in an eligible county or participating in an eligible registered apprenticeship program under chapter 28B.92 RCW in an eligible county;

(b) Be a resident student as defined in the Washington college grant program in RCW 28B.92.200(5)(c);

(c) Be in a certificate, degree, or other industry-recognized credential or training program that has been identified by the board as a program that prepares students for a high employer demand field;

(d) Have a family income that does not exceed seventy percent of the state median family income adjusted for family size; and

(e) Demonstrate financial need according to the free application for federal student aid or the Washington application for state financial aid.

(4) To remain eligible for scholarship funds under the rural jobs program, the student must meet satisfactory academic progress toward completion of an eligible program as established by the program. Rural

jobs program eligibility may not extend beyond five years or 125 percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent.

(5) A scholarship award under the rural jobs program may not result in a reduction of any gift aid. Nothing in this section creates any right or entitlement.

**Sec. 5.** RCW 28B.145.120 and 2018 c 254 s 6 are each amended to read as follows:

(1) The rural jobs program match transfer account is created in the custody of the state treasurer as a nonappropriated account to be used solely and exclusively for the rural jobs program created in RCW 28B.145.100. The purpose of the rural jobs program match transfer account is to provide state matching funds for the rural jobs program.

(2) Revenues to the rural jobs program match transfer account shall consist of appropriations by the legislature into the rural jobs program match transfer account.

(3) No expenditures from the rural jobs program match transfer account may be made except upon receipt of proof, by the executive director of the council from the program administrator, of private contributions to the rural jobs program. Expenditures, in the form of matching funds, may not exceed the total amount of private contributions.

(4) Only the executive director of the council or the executive director's designee may authorize expenditures from the rural jobs program match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under this section.

(5)(a) The council shall enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

(b) Once moneys in the rural jobs program match transfer account are subject to an agreement under this subsection and are deposited in the student support pathways account, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets in the student support pathways account are not considered state money, common cash, or revenue to the state.

~~((4) The state match must not exceed one million dollars in a single fiscal biennium and must be based on donations and pledges received by the rural jobs program as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Nothing in this section expands or modifies the responsibilities of the caseload forecast council.))~~

**NEW SECTION. Sec. 6.** RCW 28B.145.130 (Rural jobs program—State matching funds) and 2018 c 254 s 7 are each repealed.

**NEW SECTION. Sec. 7.** 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."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28B.145.010, 28B.145.020, 28B.145.040, 28B.145.100, and 28B.145.120; repealing RCW 28B.145.130; and declaring an emergency."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1289 and advanced the bill, as amended by the Senate, to final passage.

Representatives Reed and Ybarra spoke in favor of the passage of the bill.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1289, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1289, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Chopp and Ortiz-Self

SUBSTITUTE HOUSE BILL NO. 1289, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1301, with the following amendment(s): 1301 AMS LC S2516.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that, at times, additional protection by means of the regulation of a profession through professional licensure may be deemed necessary to ensure that the public's health, safety, and general welfare is protected. Furthermore, technological

innovation continues to change the responsibilities and practices surrounding these professions, and by result, the potential harms associated with them.

(2) It is also recognized that requirements, such as educational requirements, fees, and training hours, which an individual must fulfill before receiving a license to practice in a profession, can create barriers to an individual's upward mobility and freedom to pursue their profession of choice.

(3) It is, therefore, the intent of the legislature to establish a sunset review process for all professional licensing requirements regulated by the department of licensing, to ensure that the rights and well-being of current and future practitioners of the profession be given full protection from unnecessary regulatory burden and that regulations meant to safeguard public health and safety are still warranted.

NEW SECTION. **Sec. 2.** This chapter may be known and cited as the professional license review act.

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of licensing.

(2) "Director" means the director of licensing.

NEW SECTION. **Sec. 4.** (1) Beginning in 2024, the department shall annually review and analyze approximately 10 percent of the professional licenses regulated by the department and prepare and submit an annual report electronically to the chief clerk of the house of representatives, the secretary of the senate, and each member of the house of representatives and senate by August 31st of each year as provided in this section. The department shall complete this process for all professional licenses within its jurisdiction within 10 years and every 10 years thereafter. Each report shall include the department's recommendations regarding whether the professional licenses should be terminated, continued, or modified.

(2) The department may require the submission of information by the affected professional board or commission and other affected or interested parties. The department shall provide notice to the relevant professional board or commission and all licensees, not regulated under a board or commission, prior to commencing the review.

(3) The department's report shall include, but not be limited to, the following:

(a) The title of the professional license and, if applicable, the name of the professional board or commission responsible for enforcement of the professional license, if any;

(b) The statutory citation or other authorization for the creation of the

professional license and, if applicable, the professional board or commission;

(c) If applicable, the number of members of the professional board or commission and how the members are appointed;

(d) If applicable, the qualifications for membership on the professional board or commission;

(e) If applicable, the number of times the professional board or commission is required to meet during the year and the number of times it actually met during the preceding five calendar years;

(f) Annual budget information for the five most recently completed fiscal years;

(g) For the immediately preceding five calendar years, or for the period of time less than five years for which the information is practically available, the number of government certifications, professional licenses, and registrations the department, professional board, or commission has issued, revoked, denied, or assessed penalties against, listed anonymously and separately per type of credential, and the reasons for such revocations, denials, and other penalties;

(h) A review of the basic assumptions underlying the creation of the professional license;

(i) A comparison of whether and how other states regulate the profession;

(j) A review and analysis of the hours or other amount of education, training, or experience required to obtain the license or credential;

(k) A summary of any regulatory changes made by the department, professional board, or commission as a result of the review; and

(l) Any recommendations regarding whether the professional license should be terminated, continued, or modified.

(4) After the report in subsection (3) of this section is submitted, if the relevant legislative committee determines further analysis is needed it may request the department to conduct further analysis. Specifically, the extended report shall include:

(a) Whether the professional license meets the policies stated and the following recommended courses of action for meeting such policies:

(i) If the need is to protect consumers against fraud, the recommended course of action should be to strengthen powers under chapter 19.86 RCW, or require disclosures that will reduce misleading attributes of the specific goods or services;

(ii) If the need is to protect consumers against unclean facilities or to promote general health and safety, the recommended course of action should be to require periodic inspections of such facilities;

(iii) If the need is to protect consumers against potential damages from failure by providers to complete a contract fully or up to standards, the recommended course of action should be to require that providers be bonded;

(iv) If the need is to protect a person who is not a party to a contract between the provider and consumer, the recommended course of action should be to require that the provider have insurance;

(v) If the need is to protect consumers against potential damages by transient providers, the recommended course of action should be to require that providers register their businesses with the state;

(vi) If the need is to protect consumers against a shortfall or imbalance of knowledge about the goods or services relative to the providers' knowledge, the recommended course of action should be to enact government certification; and

(vii) If the need is to address a systematic information shortfall such that a reasonable consumer is unable to distinguish between the quality of providers, there is an absence of institutions that provide adequate guidance to the consumer, and the consumer's inability to distinguish between providers and the lack of adequate guidance allows for undue risk of present, significant, and substantiated harms, the recommended course of action should be to enact a professional license; and

(b) If education, training, or experience is a qualification in the professional license under review, a review and analysis of the hours or other amount of education, training, or experience required to ensure such requirements are as least restrictive as necessary to protect the public's health, safety, and welfare.

(5) If a lawful profession is subject to chapter 18.120 RCW, the analysis under subsection (4)(a) of this section shall be made using the least restrictive method of regulation as set out in RCW 18.120.010.

(6) If the department finds that it is necessary to change professional licenses, the department shall recommend the least restrictive regulation consistent with the public interest and the policies in this section.

NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute a new chapter in Title 18 RCW."

On page 1, line 2 of the title, after "legislature;" strike the remainder of the title and insert "and adding a new chapter to Title 18 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1301 and advanced the bill, as amended by the Senate, to final passage.

Representatives McClintock and Walen spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1301, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1301, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Chopp and Ortiz-Self

HOUSE BILL NO. 1301, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Friday, March 31, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1312, with the following amendment(s): 1312 AMS LAW S2595.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 2.36.100 and 2015 c 7 s 2 are each amended to read as follows:

(1) Except for a person who is not qualified for jury service under RCW 2.36.070 or who chooses to opt out of jury service under subsection (2) of this section, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, or any reason deemed sufficient by the court for a period of time the court deems necessary.

(2) A person who is 80 years of age or older may request to be excused from jury service if the person attests that the person is unable to serve due to health reasons. An attestation form must be developed by the court and may not include a requirement that a doctor's note be provided. This request must be granted by the court.

(3) At the discretion of the court's designee, after a request by a prospective juror to be excused, a prospective juror excused from juror service for a particular time may be assigned to another jury term within the twelve-month period. If the assignment to another jury term is made at the time a juror is excused from the jury term for which he or she was summoned, a second summons under RCW 2.36.095 need not be issued. This subsection does not apply to people excused from jury service under subsection (2) of this section.

~~((3))~~ (4) When the jury source list has been fully summoned within a consecutive twelve-month period and additional jurors are needed, jurors who have already served during the consecutive twelve-month period

may be summoned again for service. A juror who has previously served may only be excused if he or she served at least one week of juror service within the preceding twelve months. An excuse for prior service shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction, in the United States District Court, or on a jury of inquest."

On page 1, line 2 of the title, after "service;" strike the remainder of the title and insert "and amending RCW 2.36.100."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1312 and advanced the bill, as amended by the Senate, to final passage.

Representatives Rude and Hansen spoke in favor of the passage of the bill.

#### MOTION

On motion of Representative Ramel, Representative Reeves was excused.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of House Bill No. 1312, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1312, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

HOUSE BILL NO. 1312, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1326, with the following amendment(s): 1326-S AMS LGLT S2276.2

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 35.92 RCW to read as follows:

(1) Municipal utilities formed under this chapter may waive connection charges for properties owned or developed by, or on the behalf of, a nonprofit organization, public development authority, housing authority, or local agency that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing, including a limited partnership as described in RCW 84.36.560(7)(f)(ii) and a limited liability company as described in RCW 84.36.560(7)(f)(iii).

(2) Connection charges waived under this chapter shall be funded using general funds, grant dollars, or other identified revenue stream.

(3) At such time as a property receiving a waiver under subsection (1) of this section is no longer operating under the eligibility requirements under subsection (1) of this section:

(a) The waiver of connection charges required under subsection (1) of this section is no longer required; and

(b) Any connection charges waived under subsection (1) of this section are immediately due and payable to the utility as a condition of continued service.

(4) For the purposes of this section:

(a) "Affordable housing" has the same meaning as in RCW 36.70A.030.

(b) "Connection charges" means the one-time capital and administrative charges, as authorized in RCW 35.92.025, that are imposed by a utility on a building or facility owner for a new utility service and costs borne or assessed by a utility for the labor, materials, and services necessary to physically connect a designated facility to the respective utility service.

(c) "Emergency shelter" means any facility that has, as its sole purpose, the provision of a temporary shelter for the homeless and that does not require occupants to sign a lease or occupancy agreement.

(d) "Permanent supportive housing" has the same meaning as in RCW 36.70A.030.

(e) "Transitional housing" has the same meaning as in RCW 84.36.043.

**Sec. 2.** RCW 35.92.380 and 1980 c 150 s 1 are each amended to read as follows:

Whenever a city or town waives or delays collection of tap-in charges, connection fees, or hookup fees for ~~((low-income))~~ low-income persons, ~~((~~ae~~))~~ a class of ~~((low-income))~~ low-income persons, or a nonprofit organization, public development authority, housing authority, or local agency that provides emergency shelter, transitional housing, permanent supportive housing, or affordable housing as defined in section 1 of this act to connect to lines or pipes used by the city or town to provide utility service, the waiver or delay shall be pursuant to a program established by ordinance. As used in this section, the provision of "utility service" includes, but is not limited to, water, sanitary or storm

sewer service, electricity, gas, other means of power, and heat."

On page 1, line 2 of the title, after "properties;" strike the remainder of the title and insert "amending RCW 35.92.380; and adding a new section to chapter 35.92 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1326 and advanced the bill, as amended by the Senate, to final passage.

Representatives Cortes and Goehner spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1326, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1326, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 84; Nays, 12; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Connors, Cortes, Couture, Davis, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Christian, Corry, Dent, Dye, Goehner, Graham, McEntire, Sandlin, Schmick, Schmidt, Volz and Walsh

Excused: Representatives Ortiz-Self and Reeves

SUBSTITUTE HOUSE BILL NO. 1326, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1346, with the following amendment(s): 1346-S AMS EDU S2348.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.625 RCW to read as follows:

(1)(a) The purple star designation is created to recognize school districts that demonstrate educational and social-emotional supports to students of military service

members as they face transitions to a new school. School districts that earn the designation will receive a special purple star recognition to display on site. The office of the superintendent of public instruction may collaborate with a state agency or nonprofit organization that has experience serving the needs of a diverse K-12 population to establish and administer the designation. A school district must be considered for the purple star designation if it applies and completes all the required activities and at least one optional activity listed in this section.

(b) A school district must complete the following required activities to be considered to receive the purple star designation:

(i) The school district must have a staff point of contact for military students and families. The staff point of contact must:

(A) Work jointly with the state military family education liaison under RCW 28A.705.010, article VIII to serve military families;

(B) Serve as the primary liaison between military families and the school district;

(C) Complete professional development on special considerations for military students and families under relevant state and federal law; and

(D) Identify and inform teachers of military-connected students in their classrooms and the special considerations military families and students should receive under the interstate compact on educational opportunity for military children under RCW 28A.705.010; and

(ii) The school district maintains a dedicated page on its website featuring resources for military families.

(c) A school district must complete at least one of the following optional activities to be considered to receive the purple star designation:

(i) The school district provides professional development for additional staff on special considerations for military students and families;

(ii) The school district board of directors passes a resolution publicizing the school district's support for military children and families; or

(iii) The school district hosts a military recognition event that demonstrates a military friendly culture.

(2) The office of the superintendent of public instruction must make available on its website:

(a) A simple application for a school district to submit for consideration to receive a purple star designation. The application must require evidence of meeting each of the required activities under subsection (1)(b) of this section and at least one optional activity under subsection (1)(c) of this section necessary to receive the purple star designation;

(b) A timeline for submittal of an application for consideration and for announcement of the recipients; and

(c) The criteria being used to review the applications received and determine which school districts receive the designation.

(3) The purple star designation shall be awarded every two years, beginning in 2024.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus operating appropriations act, this act is null and void."

On page 1, line 1 of the title, after "award;" strike the remainder of the title and insert "adding a new section to chapter 28A.625 RCW; and creating a new section."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1346 and advanced the bill, as amended by the Senate, to final passage.

Representatives Shavers and Rude spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1346, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1346, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 2; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Cory, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives McEntire and Walsh

Excused: Representatives Ortiz-Self and Reeves

SUBSTITUTE HOUSE BILL NO. 1346, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1369, with the following amendment(s): 1369-S.E AMS LAW S2391.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW to read as follows:

Washington fish and wildlife officers may engage in private law enforcement off-duty employment, in uniform or in plainclothes for private benefit, subject to guidelines adopted by the chief of fish and wildlife enforcement. These guidelines must ensure that the integrity and professionalism of the Washington fish and wildlife enforcement is preserved. Use of Washington fish and wildlife officer's uniforms shall be considered de minimis use of state property. For any employment authorized under this section that occurs on reservation, trust, or allotted lands of a federally-recognized Indian tribe, a Washington fish and wildlife officer must have taken the violence de-escalation and mental health training provided by the criminal justice training commission, including the curriculum of the history of police interactions with Native American communities; and the private employer must have obtained permission from the affected federally recognized Indian tribe.

**NEW SECTION. Sec. 2.** A new section is added to chapter 4.92 RCW to read as follows:

(1) The state is not liable for tortious conduct by department of fish and wildlife officers that occurs while such officers are engaged in private law enforcement off-duty employment.

(2) Upon petition of the state any suit, for which immunity is granted to the state under subsection (1) of this section, shall be dismissed.

(3) Department of fish and wildlife officers engaged in private law enforcement off-duty employment shall notify, in writing, prior to such employment, anyone who employs department of fish and wildlife officers in private off-duty employment of the specific provisions of subsections (1) and (2) of this section."

On page 1, line 2 of the title, after "officers;" strike the remainder of the title and insert "adding a new section to chapter 77.15 RCW; and adding a new section to chapter 4.92 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1369 and advanced the bill, as amended by the Senate, to final passage.

Representatives Griffey and Goodman spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1369, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1369, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1369, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1466, with the following amendment(s): 1466-S.E AMS HLTC S2566.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.29.190 and 2019 c 111 s 3 are each amended to read as follows:

(1) The department shall issue an initial ~~((limited))~~ temporary license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state or Canadian province that allows a substantively equivalent scope of practice in subsection (3)(a) through (j) of this section;

~~(b) ((Is currently engaged in active practice in another state or Canadian province. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;~~

~~(c))~~ Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state or Canadian province;

~~((d))~~ (c) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

~~((e))~~ (d) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs; and

((f)) (e) Pays any required fees (~~and~~  
(g) Meets requirements for AIDS education).

(2) The term of the initial ((limited)) temporary license issued under this section is ((eighteen months)) five years and it is renewable upon:

(a) Demonstration of successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;

(b) Demonstration of successful passage of a substantively equivalent local anesthesia examination;

(c) Demonstration of didactic and clinical competency in the administration of nitrous oxide analgesia; and

(d) Demonstration of successful passage of an educational program on the administration of local anesthesia and nitrous oxide analgesia.

(3) A person practicing with an initial ((limited)) temporary license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with an initial ((limited)) temporary license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia. For purposes of the renewed ((limited)) temporary license, this endorsement demonstrates the successful passage of the local anesthesia examination.

(c) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(d) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in administering nitrous oxide analgesia may receive a temporary endorsement to administer nitrous oxide analgesia.

(5)(a) A person practicing with a renewed ((limited)) temporary license granted under this section may:

(i) Perform hygiene procedures as provided under subsection (3) of this section;

(ii) Give injections of local anesthetic;

(iii) Perform soft tissue curettage; and

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed ((limited)) temporary license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration.

(6) The secretary shall issue an initial temporary license to all dental hygienists with an active limited license as of the effective date of this section. The initial temporary license expires five years after the date the initial limited license was issued."

On page 1, line 1 of the title, after "auxiliaries;" strike the remainder of the title and insert "and amending RCW 18.29.190."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1466 and advanced the bill, as amended by the Senate, to final passage.

Representatives Riccelli and Schmick spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1466, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1466, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1466, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1491, with the following amendment(s): 1491-S2 AMS WM S2966.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44 RCW to read as follows:

(1) Except as provided in subsection (2) of this section:

(a) An employer or an employer's agent may not search the privately owned vehicles of employees located on the employer's parking lots or garages or located on the access road to the employer's parking lots or garages.

(b) An employee may possess any of the employee's private property within the employee's vehicle, unless possession of such property is otherwise prohibited by law.

(c) An employer must not require, as a condition of employment, that an employee or prospective employee waive the protections of (a) or (b) of this subsection.

(2) This section does not apply:

(a) To vehicles owned or leased by an employer;

(b) To lawful searches by law enforcement officers;

(c) When the employer requires or authorizes the employee to use the employee's personal vehicle for work-related activities and the employer needs to inspect the vehicle to ensure the vehicle is suited to conduct the work-related activities;

(d) When a reasonable person would believe that accessing vehicles of an employee is necessary to prevent an immediate threat to human health, life, or safety;

(e) When an employee consents to a search of his or her privately owned vehicle by the business owner, owner's agent, or a licensed private security guard based on probable cause that the employee unlawfully possesses: (i) Employer property; or (ii) a controlled substance in violation of both federal law and the employer's written policy prohibiting drug use. The employee's consent must be given immediately prior to the search, and the employer may not require that the employee waive consent as a condition of employment. Upon consent, the employee has the right to select a witness to be present for the search;

(f) To security inspections of vehicles on state and federal military installations and facilities;

(g) To vehicles located on the premises of a state correctional institution, as defined in RCW 9.94.049; or

(h) To specific employer areas subject to searches under state or federal law.

(3) For purposes of this section, the terms "probable cause" and "private property" have their usual meaning under state and federal law.

(4) An employer may not take any adverse action against an employee for exercising any right under this section. An adverse action means any action taken or threatened by an employer against an employee for exercising the employee's rights under this section, and may include, but are not limited to:

(a) Denying the use of, or delaying, wages or other amounts owed to the employee;

(b) Terminating, suspending, demoting, or denying a promotion;

(c) Reducing the number of work hours for which the employee is scheduled;

(d) Altering the employee's preexisting work schedule;

(e) Reducing the employee's rate of pay; and

(f) Threatening to take, or taking, action based upon the immigration status of an employee or an employee's family member."

On page 1, line 2 of the title, after "vehicles;" strike the remainder of the title and insert "and adding a new section to chapter 49.44 RCW."

and the same is herewith transmitted.

Sarah Bannister, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1491 and advanced the bill, as amended by the Senate, to final passage.

Representatives Orcutt and Berry spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1491, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1491, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 1; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representative McEntire

Excused: Representatives Ortiz-Self and Reeves

SECOND SUBSTITUTE HOUSE BILL NO. 1491, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Wednesday, March 22, 2023



Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1500, with the following amendment(s): 1500-S AMS AWP S2252.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.22.050 and 2015 c 196 s 1 are each amended to read as follows:

(1) ~~((The))~~ (a) Except as provided in (b) of this subsection, the annual gross sales of cottage food products may not exceed ((twenty-five thousand dollars))\$35,000. The determination of the maximum annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(b) Every four years, the department shall review the cap on annual gross sales established in (a) of this subsection and increase the cap by expedited rule making, in accordance with RCW 34.05.353, based on that year's average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(2) If gross sales exceed the maximum allowable annual gross sales amount established under subsection (1) of this section, the cottage food operation must either obtain a food processing plant license under chapter 69.07 RCW or cease operations.

(3) A cottage food operation exceeding the maximum allowable annual gross sales amount established under subsection (1) of this section is not entitled to a full or partial refund of any fees paid under RCW 69.22.030 or 69.22.040.

(4) The director may request in writing documentation to verify the annual gross sales figure.

**Sec. 2.** RCW 69.22.030 and 2011 c 281 s 3 are each amended to read as follows:

(1) All cottage food operations must be permitted ~~((annually))~~ every two years by the department on forms developed by the department. All permits and permit renewals must be made on forms developed by the director and be accompanied by an inspection fee as provided in RCW 69.22.040, a ~~((seventy-five dollar))~~ \$75 public health review fee, and a ~~((thirty dollar))~~ \$30 processing fee. All fees must be deposited into the food processing inspection account created in RCW 69.07.120.

(2) In addition to the provision of any information required by the director on forms developed under subsection (1) of this section and the payment of all fees, an applicant for a permit or a permit renewal as a cottage food operation must also provide documentation that all individuals to be involved in the preparation of cottage ~~((foods [cottage food products]))~~ food products have secured a food and beverage service worker's permit under chapter 69.06 RCW.

(3) All cottage food operations permitted under this section must include a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants to the director the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspections under this chapter.

NEW SECTION. **Sec. 3.** A new section is added to chapter 69.22 RCW to read as follows:

The department shall maintain sufficient full-time equivalent staff to ensure timely processing of permits required under this chapter and provide improved service levels to cottage food operations."

On page 1, line 2 of the title, after "operations;" strike the remainder of the title and insert "amending RCW 69.22.050 and 69.22.030; and adding a new section to chapter 69.22 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1500 and advanced the bill, as amended by the Senate, to final passage.

Representatives Eslick and Chapman spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1500, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1500, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

SUBSTITUTE HOUSE BILL NO. 1500, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Bronoske presiding) called upon Representative Orwall to preside.

#### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1503, with the following amendment(s): 1503-S.E AMS HLTC S2342.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 18.130 RCW to read as follows:

(1) All applicants who submit applications for licensure on or after January 1, 2025, shall provide the following information with their application:

- (a) Race;
- (b) Ethnicity;
- (c) Gender;
- (d) Languages spoken;
- (e) Provider specialty, where applicable;
- (f) Primary practice location, if known at the time of application; and
- (g) Secondary practice location, if applicable and if known at the time of application.

(2) All license holders shall provide the following information when they renew their licenses on or after January 1, 2025, in addition to any other information required by the relevant disciplining authority:

(a) The information in subsection (1)(a) through (e) of this section, except, after license holders provide this information one time, they shall be required to provide only changes to this information with subsequent renewals;

(b) Whether the licensee is currently practicing;

(c) Primary practice location at the time of renewal; and

(d) Secondary practice location at the time of renewal, if applicable.

(3) The form used to collect information under this section must include the same race and ethnicity categories and subgroups required for the collection of student-level data in RCW 28A.300.042 (1) and (3).

(4) The department shall not sell the information collected pursuant to subsection (1) or (2) of this section to any third party.

(5) Applicants and licensees subject to demographic and practice information provision requirements under chapters 18.71, 18.71A, and 18.71B RCW are exempt from the requirements of this section."

On page 1, line 2 of the title, after "renewal;" strike the remainder of the title and insert "and adding a new section to chapter 18.130 RCW."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1503 and advanced the bill, as amended by the Senate, to final passage.

Representatives Riccelli and Ybarra spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1503, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1503, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1503, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Friday, April 7, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1515, with the following amendment(s): 1515-S2.E AMS HLTC S2576.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Medicaid enrollees in Washington are challenged with accessing needed behavioral health care. According to the Washington state department of social and health services, as of 2021, among medicaid enrollees with an identified mental health need, only 50 percent of adults and 66 percent of youth received treatment, while among medicaid enrollees with an identified substance use disorder need, only 37 percent of adults and 23 percent of youth received treatment. Furthermore, the national council for mental wellbeing's 2022 access to care survey found that 43 percent of adults in the United States who say they need mental health or substance use care did not receive that care, and they face numerous barriers to receiving needed treatment. Lack of necessary care can cause behavioral health conditions to deteriorate and crises to escalate, driving increasing use of intensive services such as inpatient care and involuntary treatment. As a result, the

behavioral health system is reaching a crisis point in communities across the state.

(b) As of December 2022, 1,953,153 Washington residents rely on apple health managed care organizations to provide for their physical and behavioral health needs. During the integration of physical and behavioral health care pursuant to chapter 225, Laws of 2014, the health care authority most recently procured managed care services in 2018 and selected five managed care organizations to serve as Washington's apple health plans to provide for the physical and behavioral health care needs of medicaid enrollees. The health care authority has begun considering when to conduct a new procurement for managed care organizations, including an allowance for possible new entrants that do not currently serve Washington's medicaid population.

(c) Medicaid managed care procurement presents a need and an opportunity for the state to reset expectations for managed care organizations related to behavioral health services to ensure that Washington residents are being served by qualified and experienced health plans that can deliver on the access to care and quality of care that residents need and deserve.

(2) It is the intent of the legislature to seize this opportunity to address ongoing challenges Washington's medicaid enrollees face in accessing behavioral health care. The legislature intends to establish robust new standards defining the levels of medicaid-funded behavioral health service capacity and resources that are adequate to meet medicaid enrollees' treatment needs; to ensure that managed care organizations that serve Washington's medicaid enrollees have a track record of success in delivering a broad range of behavioral health care services to safety net populations; and to advance payment structures and provider network delivery models that improve equitable access, promote integration of care, and deliver on outcomes.

(3) The legislature finds that increased access to behavioral health services for American Indians and Alaska Natives, children in foster care, and the aged, blind, and disabled through the preservation and enhancement of the fee-for-service system is also critical to reducing health disparities among these vulnerable populations. The legislature also intends to increase access to timely and robust behavioral health services for American Indians and Alaska Natives, children in foster care, and the aged, blind, and disabled, in the fee-for-service system they access.

**Sec. 2.** RCW 74.09.871 and 2019 c 325 s 4006 are each amended to read as follows:

(1) Any agreement or contract by the authority to provide behavioral health services as defined under RCW 71.24.025 to persons eligible for benefits under medicaid, Title XIX of the social security act, and to persons not eligible for medicaid must include the following:

(a) Contractual provisions consistent with the intent expressed in RCW 71.24.015 and 71.36.005;

(b) Standards regarding the quality of services to be provided, including increased use of evidence-based, research-based, and promising practices, as defined in RCW 71.24.025;

(c) Accountability for the client outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025 and performance measures linked to those outcomes;

(d) Standards requiring behavioral health administrative services organizations and managed care organizations to maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority and to protect essential behavioral health system infrastructure and capacity, including a continuum of substance use disorder services;

(e) Provisions to require that medically necessary substance use disorder and mental health treatment services be available to clients;

(f) Standards requiring the use of behavioral health service provider reimbursement methods that incentivize improved performance with respect to the client outcomes established in RCW 71.24.435 and 71.36.025, integration of behavioral health and primary care services at the clinical level, and improved care coordination for individuals with complex care needs;

(g) Standards related to the financial integrity of the contracting entity. This subsection does not limit the authority of the authority to take action under a contract upon finding that a contracting entity's financial status jeopardizes the contracting entity's ability to meet its contractual obligations;

(h) Mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial deductions, termination of the contract, receivership, reprocurement of the contract, and injunctive remedies;

(i) Provisions to maintain the decision-making independence of designated crisis responders; and

(j) Provisions stating that public funds appropriated by the legislature may not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(2) At least six months prior to releasing a medicaid integrated managed care procurement, but no later than January 1, 2025, the authority shall adopt statewide network adequacy standards that are assessed on a regional basis for the behavioral health provider networks maintained by managed care organizations pursuant to subsection (1)(d) of this section. The standards shall require a network that ensures access to appropriate and timely behavioral health services for the enrollees of the managed care organization who live within the regional service area. At a

minimum, these standards must address each behavioral health services type covered by the medicaid integrated managed care contract. This includes, but is not limited to: Outpatient, inpatient, and residential levels of care for adults and youth with a mental health disorder; outpatient, inpatient, and residential levels of care for adults and youth with a substance use disorder; crisis and stabilization services; providers of medication for opioid use disorders; specialty care; other facility-based services; and other providers as determined by the authority through this process. The authority shall apply the standards regionally and shall incorporate behavioral health system needs and considerations as follows:

(a) Include a process for an annual review of the network adequacy standards;

(b) Provide for participation from counties and behavioral health providers in both initial development and subsequent updates;

(c) Account for the regional service area's population; prevalence of behavioral health conditions; types of minimum behavioral health services and service capacity offered by providers in the regional service area; number and geographic proximity of providers in the regional service area; an assessment of the needs or gaps in the region; and availability of culturally specific services and providers in the regional service area to address the needs of communities that experience cultural barriers to health care including but not limited to communities of color and the LGBTQ+ community;

(d) Include a structure for monitoring compliance with provider network standards and timely access to the services;

(e) Consider how statewide services, such as residential treatment facilities, are utilized cross-regionally; and

(f) Consider how the standards would impact requirements for behavioral health administrative service organizations.

(3) Before releasing a medicaid integrated managed care procurement, the authority shall identify options that minimize provider administrative burden, including the potential to limit the number of managed care organizations that operate in a regional service area.

(4) The following factors must be given significant weight in any medicaid integrated managed care procurement process under this section:

(a) Demonstrated commitment and experience in serving low-income populations;

(b) Demonstrated commitment and experience serving persons who have mental illness, substance use disorders, or co-occurring disorders;

(c) Demonstrated commitment to and experience with partnerships with county and municipal criminal justice systems, housing services, and other critical support services necessary to achieve the outcomes established in RCW 71.24.435, 70.320.020, and 71.36.025;

(d) The ability to provide for the crisis service needs of medicaid enrollees,

consistent with the degree to which such services are funded;

(e) Recognition that meeting enrollees' physical and behavioral health care needs is a shared responsibility of contracted behavioral health administrative services organizations, managed care organizations, service providers, the state, and communities;

(~~(e)~~) (f) Consideration of past and current performance and participation in other state or federal behavioral health programs as a contractor; (~~and~~

(~~f)~~) (g) The ability to meet requirements established by the authority (~~(- (3))~~);

(h) The extent to which a managed care organization's approach to contracting simplifies billing and contracting burdens for community behavioral health provider agencies, which may include but is not limited to a delegation arrangement with a provider network that leverages local, federal, or philanthropic funding to enhance the effectiveness of medicaid-funded integrated care services and promote medicaid clients' access to a system of services that addresses additional social support services and social determinants of health as defined in RCW 43.20.025;

(i) Demonstrated prior national or in-state experience with a full continuum of behavioral health services that are substantially similar to the behavioral health services covered under the Washington medicaid state plan, including evidence through past and current data on performance, quality, and outcomes; and

(j) Demonstrated commitment by managed care organizations to the use of alternative pricing and payment structures between a managed care organization and its behavioral health services providers, including provider networks described in subsection (b) of this section, and between a managed care organization and a behavioral administrative service organization, in any of their agreements or contracts under this section, which may include but are not limited to:

(i) Value-based purchasing efforts consistent with the authority's value-based purchasing strategy, such as capitated payment arrangements, comprehensive population-based payment arrangements, or case rate arrangements; or

(ii) Payment methods that secure a sufficient amount of ready and available capacity for levels of care that require staffing 24 hours per day, 365 days per year, to serve anyone in the regional service area with a demonstrated need for the service at all times, regardless of fluctuating utilization.

(5) The authority may use existing cross-system outcome data such as the outcomes and related measures under subsection (4)(c) of this section and chapter 338, Laws of 2013, to determine that the alternative pricing and payment structures referenced in subsection (4)(j) of this section have advanced community behavioral health system outcomes more effectively than a fee-for-service model may have been expected to deliver.

(6)(a) The authority shall urge managed care organizations to establish, continue,

or expand delegation arrangements with a provider network that exists on the effective date of this section and that leverages local, federal, or philanthropic funding to enhance the effectiveness of medicaid-funded integrated care services and promote medicaid clients' access to a system of services that addresses additional social support services and social determinants of health as defined in RCW 43.20.025. Such delegation arrangements must meet the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(b) The authority shall recognize and support, and may not limit or restrict, a delegation arrangement that a managed care organization and a provider network described in (a) of this subsection have agreed upon, provided such arrangement meets the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards. The authority may periodically review such arrangements for effectiveness according to the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(c) Managed care organizations and the authority may evaluate whether to establish or support future delegation arrangements with any additional provider networks that may be created after the effective date of this section, based on the requirements of the integrated managed care contract and the national committee for quality assurance accreditation standards.

(7) The authority shall expand the types of behavioral health crisis services that can be funded with medicaid to the maximum extent allowable under federal law, including seeking approval from the centers for medicare and medicaid services for amendments to the medicaid state plan or medicaid state directed payments that support the 24 hours per day, 365 days per year capacity of the crisis delivery system when necessary to achieve this expansion.

(8) The authority shall, in consultation with managed care organizations, review reports and recommendations of the involuntary treatment act work group established pursuant to section 103, chapter 302, Laws of 2020 and develop a plan for adding contract provisions that increase managed care organizations' accountability when their enrollees require long-term involuntary inpatient behavioral health treatment and shall explore opportunities to maximize medicaid funding as appropriate.

(9) In recognition of the value of community input and consistent with past procurement practices, the authority shall include county and behavioral health provider representatives in the development of any medicaid integrated managed care procurement process. This shall include, at a minimum, two representatives identified by the association of county human services and two representatives identified by the Washington council for behavioral health to participate in the review and development of procurement documents.

(10) For purposes of purchasing behavioral health services and medical care services for persons eligible for benefits

under medicaid, Title XIX of the social security act and for persons not eligible for medicaid, the authority must use regional service areas. The regional service areas must be established by the authority as provided in RCW 74.09.870.

~~((4))~~(11) Consideration must be given to using multiple-biennia contracting periods.

~~((5))~~(12) Each behavioral health administrative services organization operating pursuant to a contract issued under this section shall serve clients within its regional service area who meet the authority's eligibility criteria for mental health and substance use disorder services within available resources.

**Sec. 3.** RCW 71.24.861 and 2019 c 325 s 1047 are each amended to read as follows:

(1) The legislature finds that ongoing coordination between state agencies, the counties, and the behavioral health administrative services organizations is necessary to coordinate the behavioral health system. To this end, the authority shall establish a committee to meet quarterly to address systemic issues, including but not limited to the data-sharing needs of behavioral health system partners.

(2) The committee established in subsection (1) of this section must be convened by the authority, meet quarterly, and include representatives from:

- (a) The authority;
- (b) The department of social and health services;
- (c) The department;
- (d) The office of the governor;
- (e) One representative from the behavioral health administrative services organization per regional service area; and
- (f) One county representative per regional service area.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 74.09.871 and 71.24.861; and creating new sections."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1515 and advanced the bill, as amended by the Senate, to final passage.

Representatives Riccelli and Schmick spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1515, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1515, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Gohner, Goodman, Graham, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1515, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Friday, April 7, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1068, with the following amendment(s): 1068-S AMS ENGR S2574.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 51.36.070 and 2020 c 213 s 3 are each amended to read as follows:

(1) (a) Whenever the department or the self-insurer deems it necessary in order to (i) make a decision regarding claim allowance or reopening, (ii) resolve a new medical issue, an appeal, or case progress, or (iii) evaluate the worker's permanent disability or work restriction, a worker shall submit to examination by a physician or physicians selected by the department, with the rendition of a report to the person ordering the examination, the attending physician, and the injured worker.

(b) The examination must be at a place reasonably convenient to the injured worker, or alternatively utilize telemedicine if the department determines telemedicine is appropriate for the examination. For purposes of this subsection, "reasonably convenient" means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner. The department must address in rule how to accommodate the injured worker if no approved medical examiner in the specialty needed is available in that community.

(2) The department or self-insurer shall provide the physician performing an examination with all relevant medical records from the worker's claim file. The

director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be. The cost of said examination shall include payment to the worker of reasonable expenses connected therewith.

(3) For purposes of this section, "examination" means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the department or self-insured employer (~~or by order of the board of industrial insurance appeals~~).

(4) (a) The worker has the right to record the audio, video, or both, of all examinations ordered under this section, RCW 51.32.110, or by the board of industrial insurance appeals.

(b) The worker or the worker's representative must provide notice to the entity scheduling the examination that the examination will be recorded no less than seven calendar days before the date of the examination. The department must adopt rules to define the notification process.

(c) The worker is responsible for paying the costs of recording.

(d) Upon request, the worker must provide one copy of the recording to the department or self-insured employer within 14 days of receiving the request, but in no case prior to the issuance of a written report of the examination.

(e) The worker must take reasonable steps to ensure the recording equipment does not interfere with the examination. The worker may not hold the recording equipment while the examination is occurring.

(f) The worker may not materially alter the recording. Benefits received as a result of any material alteration of the recording by the worker or done on the worker's behalf may be subject to repayment pursuant to RCW 51.32.240.

(g) The worker may not post the recording to social media.

(h) Recordings made under this subsection are deemed confidential pursuant to RCW 51.28.070.

(i) The worker has the right to have one person, who is at least the age of majority and who is of the worker's choosing, to be present to observe all examinations ordered under this section, RCW 51.32.110, or by the board of industrial insurance appeals. The observer must be unobtrusive and not interfere with the examination. The observer may not be the worker's legal representative, an employee of the legal representative, the worker's attending provider, or an employee of the worker's attending provider.

(5) This section applies prospectively to all claims regardless of the date of injury."

On page 1, line 2 of the title, after "examinations;" strike the remainder of the title and insert "and amending RCW 51.36.070."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1068 and advanced the bill, as amended by the Senate, to final passage.

Representative Bronoske spoke in favor of the passage of the bill.

Representative Robertson spoke against the passage of the bill.

**FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1068, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1068, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 67; Nays, 29; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chandler, Cheney, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Kloba, Leavitt, Lekanoff, Low, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Rule, Ryu, Santos, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Waters, Wylie and Mme. Speaker

Voting Nay: Representatives Barkis, Barnard, Chambers, Chapman, Christian, Connors, Corry, Couture, Dent, Dye, Graham, Jacobsen, Klicker, Kretz, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Sandlin, Schmick, Schmidt, Stokesbary, Volz, Walsh, Wilcox and Ybarra

Excused: Representatives Ortiz-Self and Reeves

SUBSTITUTE HOUSE BILL NO. 1068, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

Friday, March 31, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1542, with the following amendment(s): 1542 AMS LC S2442.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 49.17 RCW to read as follows:

(1) Any employer with employees who operate, maintain, or construct high voltage lines and equipment or who conduct line-clearance tree trimming in close proximity to high voltage lines and equipment shall:

(a) Make an automated external defibrillator available and accessible to employees when work is being performed on, or in close proximity to, high voltage lines and equipment by two or more employees;

(b) Conduct regular maintenance and annual inspections of the automated external

defibrillator to ensure operability and availability; and

(c) Provide training or facilitate the provision of training to ensure there are at least two employees proficient on the proper and safe use of the automated external defibrillator at any site involving work on, or in close proximity to, high voltage lines and equipment. To be considered proficient, an employee must have completed initial or updated training within the previous two years.

(2) For the purposes of this section, "high voltage lines and equipment" refers to any energized communication line, electric supply line, or equipment with a voltage of 601 or greater.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2025."

On page 1, line 3 of the title, after "equipment;" strike the remainder of the title and insert "adding a new section to chapter 49.17 RCW; and providing an effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1542 and advanced the bill, as amended by the Senate, to final passage.

Representatives Bronoske and Schmidt spoke in favor of the passage of the bill.

**FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1542, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1542, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

HOUSE BILL NO. 1542, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

Friday, April 7, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1564, with the following amendment(s): 1564 AMS DHIN S2732.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to support survivors of sexual offenses through building victim-centered, trauma-informed systems that promote successful investigations and prosecutions of sexual offenses. Thorough and professional investigations, including preservation of forensic evidence, are imperative and a fundamental component in achieving these outcomes. At-home sexual assault test kits create false expectations and harm the potential for successful investigations and prosecutions. The sale of over-the-counter sexual assault kits may prevent survivors from receiving accurate information about their options and reporting processes; from obtaining access to appropriate and timely medical treatment and follow up; and from connecting to their community and other vital resources.

NEW SECTION. **Sec. 2.** A new section is added to chapter 5.70 RCW to read as follows:

(1) For purposes of this section:

(a) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place situated in Washington state where a health care provider provides health care to patients.

(b) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law, in Washington state, to provide health care in the ordinary course of business or practice of a profession, and includes a health care facility.

(c) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

(d) "Sexual assault kit" means a product with which evidence of sexual assault is collected.

(2) A person may not sell, offer for sale, or otherwise make available a sexual assault kit:

(a) That is marketed or otherwise presented as over-the-counter, at-home, or self-collected or in any manner that indicates that the sexual assault kit may be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider; or

(b) If the person intends, knows, or reasonably should know that the sexual assault kit will be used for the collection of evidence of sexual assault other than by law enforcement or a health care provider.

(3) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the

consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW."

On page 1, line 2 of the title, after "kits;" strike the remainder of the title and insert "adding a new section to chapter 5.70 RCW; and creating a new section."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1564 and advanced the bill, as amended by the Senate, to final passage.

Representatives Mosbrucker and Goodman spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1564, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1564, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

HOUSE BILL NO. 1564, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1576, with the following amendment(s): 1576-S.E AMS HLTC S2567.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** This act shall be known and cited as the dentist and dental hygienist compact. The purposes of this compact are to facilitate the interstate



practice of dentistry and dental hygiene and improve public access to dentistry and dental hygiene services by providing dentists and dental hygienists licensed in a participating state the ability to practice in participating states in which they are not licensed. The compact does this by establishing a pathway for dentists and dental hygienists licensed in a participating state to obtain a compact privilege that authorizes them to practice in another participating state in which they are not licensed. The compact enables participating states to protect the public health and safety with respect to the practice of such dentists and dental hygienists, through the state's authority to regulate the practice of dentistry and dental hygiene in the state. The compact:

(1) Enables dentists and dental hygienists who qualify for a compact privilege to practice in other participating states without satisfying burdensome and duplicative requirements associated with securing a license to practice in those states;

(2) Promotes mobility and addresses workforce shortages through each participating state's acceptance of a compact privilege to practice in that state;

(3) Increases public access to qualified, licensed dentists and dental hygienists by creating a responsible, streamlined pathway for licensees to practice in participating states;

(4) Enhances the ability of participating states to protect the public's health and safety;

(5) Does not interfere with licensure requirements established by a participating state;

(6) Facilitates the sharing of licensure and disciplinary information among participating states;

(7) Requires dentists and dental hygienists who practice in a participating state pursuant to a compact privilege to practice within the scope of practice authorized in that state;

(8) Extends the authority of a participating state to regulate the practice of dentistry and dental hygiene within its borders to dentists and dental hygienists who practice in the state through a compact privilege;

(9) Promotes the cooperation of participating states in regulating the practice of dentistry and dental hygiene within those states; and

(10) Facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene.

**NEW SECTION. Sec. 2.** As used in this compact, unless the context requires otherwise, the following definitions shall apply:

(1) "Active military member" means any individual in full-time duty status in the armed forces of the United States including members of the national guard and reserve.

(2) "Adverse action" means disciplinary action or encumbrance imposed on a license

or compact privilege by a state licensing authority.

(3) "Alternative program" means a nondisciplinary monitoring or practice remediation process applicable to a dentist or dental hygienist approved by a state licensing authority of a participating state in which the dentist or dental hygienist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues are referred in lieu of adverse action.

(4) "Clinical assessment" means an examination or process, required for licensure as a dentist or dental hygienist as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.

(5) "Commissioner" means the individual appointed by a participating state to serve as the member of the commission for that participating state.

(6) "Compact" means this dentist and dental hygienist compact.

(7) "Compact privilege" means the authorization granted by a remote state to allow a licensee from a participating state to practice as a dentist or dental hygienist in a remote state.

(8) "Continuing professional development" means a requirement, as a condition of license renewal, to provide evidence of successful participation in educational or professional activities relevant to practice or area of work.

(9) "Criminal background check" means the submission of fingerprints or other biometric-based information for a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 C.F.R. Sec. 20.3(d) from the federal bureau of investigation and the state's criminal history record repository as defined in 28 C.F.R. Sec. 20.3(f).

(10) "Data system" means the commission's repository of information about licensees, including but not limited to examination, licensure, investigative, compact privilege, adverse action, and alternative program information.

(11) "Dental hygienist" means an individual who is licensed by a state licensing authority to practice dental hygiene.

(12) "Dentist" means an individual who is licensed by a state licensing authority to practice dentistry.

(13) "Dentist and dental hygienist compact commission" or "commission" means a joint government agency established by this compact comprised of each state that has enacted the compact and a national administrative body comprised of a commissioner from each state that has enacted the compact.

(14) "Encumbered license" means a license that a state licensing authority has limited in any way other than through an alternative program.

(15) "Executive board" means the chair, vice chair, secretary, treasurer, and any other commissioners as may be determined by commission rule or bylaw.

(16) "Jurisprudence requirement" means the assessment of an individual's knowledge

of the laws and rules governing the practice of dentistry or dental hygiene, as applicable, in a state.

(17) "License" means current authorization by a state, other than authorization pursuant to a compact privilege or other privilege, for an individual to practice as a dentist or dental hygienist in that state.

(18) "Licensee" means an individual who holds an unrestricted license from a participating state to practice as a dentist or dental hygienist in that state.

(19) "Model compact" means the model for the dentist and dental hygienist compact on file with the council of state governments or other entity as designated by the commission.

(20) "Participating state" means a state that has enacted the compact and been admitted to the commission in accordance with the provisions herein and commission rules.

(21) "Qualifying license" means a license that is not an encumbered license issued by a participating state to practice dentistry or dental hygiene.

(22) "Remote state" means a participating state where a licensee who is not licensed as a dentist or dental hygienist is exercising or seeking to exercise the compact privilege.

(23) "Rule" means a regulation promulgated by an entity that has the force of law.

(24) "Scope of practice" means the procedures, actions, and processes a dentist or dental hygienist licensed in a state is permitted to undertake in that state and the circumstances under which the licensee is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes and the circumstances under which they may be undertaken may be established through means including, but not limited to, statutes, regulations, case law, and other processes available to the state licensing authority or other government agency.

(25) "Significant investigative information" means information, records, and documents received or generated by a state licensing authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the licensee has violated a statute or regulation that is considered more than a minor infraction for which the state licensing authority could pursue adverse action against the licensee.

(26) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

(27) "State licensing authority" means an agency or other entity of a state that is responsible for the licensing and regulation of dentists or dental hygienists.

**NEW SECTION. Sec. 3.** (1) In order to join the compact and thereafter continue as a participating state, a state must:

(a) Enact a compact that is not materially different from the model compact

as determined in accordance with commission rules;

(b) Participate fully in the commission's data system;

(c) Have a mechanism in place for receiving and investigating complaints about its licensees and license applicants;

(d) Notify the commission, in compliance with the terms of the compact and commission rules, of any adverse action or the availability of significant investigative information regarding a licensee and license applicant;

(e) Fully implement a criminal background check requirement, within a time frame established by commission rule, by receiving the results of a qualifying criminal background check;

(f) Comply with the commission rules applicable to a participating state;

(g) Accept the national board examinations of the joint commission on national dental examinations or another examination accepted by commission rule as a licensure examination;

(h) Accept for licensure that applicants for a dentist license graduate from a predoctoral dental education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery or doctor of dental medicine degree;

(i) Accept for licensure that applicants for a dental hygienist license graduate from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs;

(j) Require for licensure that applicants successfully complete a clinical assessment;

(k) Have continuing professional development requirements as a condition for license renewal; and

(l) Pay a participation fee to the commission as established by commission rule.

(2) Providing alternative pathways for an individual to obtain an unrestricted license does not disqualify a state from participating in the compact.

(3) When conducting a criminal background check the state licensing authority shall:

(a) Consider that information in making a licensure decision;

(b) Maintain documentation of completion of the criminal background check and background check information to the extent allowed by state and federal law; and

(c) Report to the commission whether it has completed the criminal background check and whether the individual was granted or denied a license.

(4) A licensee of a participating state who has a qualifying license in that state and does not hold an encumbered license in any other participating state shall be issued a compact privilege in a remote state in accordance with the terms of the compact and commission rules. If a remote state has a jurisprudence requirement a compact

privilege will not be issued to the licensee unless the licensee has satisfied the jurisprudence requirement.

NEW SECTION. **Sec. 4.** (1) To obtain and exercise the compact privilege under the terms and provisions of the compact, the licensee shall:

(a) Have a qualifying license as a dentist or dental hygienist in a participating state;

(b) Be eligible for a compact privilege in any remote state in accordance with subsections (4), (7), and (8) of this section;

(c) Submit to an application process whenever the licensee is seeking a compact privilege;

(d) Pay any applicable commission and remote state fees for a compact privilege in the remote state;

(e) Meet any jurisprudence requirement established by a remote state in which the licensee is seeking a compact privilege;

(f) Have passed a national board examination of the joint commission on national dental examinations or another examination accepted by commission rule;

(g) For a dentist, have graduated from a predoctoral dental education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs, leading to the doctor of dental surgery or doctor of dental medicine degree;

(h) For a dental hygienist, have graduated from a dental hygiene education program accredited by the commission on dental accreditation or another accrediting agency recognized by the United States department of education for the accreditation of dentistry and dental hygiene education programs;

(i) Have successfully completed a clinical assessment for licensure;

(j) Report to the commission adverse action taken by any nonparticipating state when applying for a compact privilege and, otherwise, within 30 days from the date the adverse action is taken;

(k) Report to the commission when applying for a compact privilege the address of the licensee's primary residence and thereafter immediately report to the commission any change in the address of the licensee's primary residence; and

(1) Consent to accept service of process by mail at the licensee's primary residence on record with the commission with respect to any action brought against the licensee by the commission or a participating state, and consent to accept service of a subpoena by mail at the licensee's primary residence on record with the commission with respect to any action brought or investigation conducted by the commission or a participating state.

(2) The licensee must comply with the requirements of subsection (1) of this section to maintain the compact privilege in the remote state. If those requirements are met, the compact privilege will continue as long as the licensee maintains a qualifying

license in the state through which the licensee applied for the compact privilege and pays any applicable compact privilege renewal fees.

(3) A licensee providing dentistry or dental hygiene in a remote state under the compact privilege shall function within the scope of practice authorized by the remote state for a dentist or dental hygienist licensed in that state.

(4) A licensee providing dentistry or dental hygiene pursuant to a compact privilege in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, by adverse action revoke or remove a licensee's compact privilege in the remote state for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a remote state imposes an adverse action against a compact privilege that limits the compact privilege, that adverse action applies to all compact privileges in all remote states. A licensee whose compact privilege in a remote state is removed for a specified period of time is not eligible for a compact privilege in any other remote state until the specific time for removal of the compact privilege has passed and all encumbrance requirements are satisfied.

(5) If a license in a participating state is an encumbered license, the licensee shall lose the compact privilege in a remote state and shall not be eligible for a compact privilege in any remote state until the license is no longer encumbered.

(6) Once an encumbered license in a participating state is restored to good standing, the licensee must meet the requirements of subsection (1) of this section to obtain a compact privilege in a remote state.

(7) If a licensee's compact privilege in a remote state is removed by the remote state, the individual shall lose or be ineligible for the compact privilege in any remote state until the following occur:

(a) The specific period of time for which the compact privilege was removed has ended; and

(b) All conditions for removal of the compact privilege have been satisfied.

(8) Once the requirements of subsection (7) of this section have been met, the licensee must meet the requirements in subsection (1) of this section to obtain a compact privilege in a remote state.

NEW SECTION. **Sec. 5.** An active military member and their spouse shall not be required to pay to the commission for a compact privilege the fee otherwise charged by the commission. If a remote state chooses to charge a fee for a compact privilege, it may choose to charge a reduced fee or no fee to an active military member and their spouse for a compact privilege.

NEW SECTION. **Sec. 6.** (1) A participating state in which a licensee is licensed shall have exclusive authority to impose adverse action against the qualifying license issued by that participating state.

(2) A participating state may take adverse action based on the significant investigative information of a remote state, so long as the participating state follows its own procedures for imposing adverse action.

(3) Nothing in this compact shall override a participating state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the participating state's laws. Participating states must require licensees who enter any alternative program in lieu of discipline to agree not to practice pursuant to a compact privilege in any other participating state during the term of the alternative program without prior authorization from such other participating state.

(4) Any participating state in which a licensee is applying to practice or is practicing pursuant to a compact privilege may investigate actual or alleged violations of the statutes and regulations authorizing the practice of dentistry or dental hygiene in any other participating state in which the dentist or dental hygienist holds a license or compact privilege.

(5) A remote state shall have the authority to:

(a) Take adverse actions as set forth in section 4(4) of this act against a licensee's compact privilege in the state;

(b) In furtherance of its rights and responsibilities under the compact and the commission's rules, issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a state licensing authority in a participating state for the attendance and testimony of witnesses or the production of evidence from another participating state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located; and

(c) If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

(6)(a) In addition to the authority granted to a participating state by its dentist or dental hygienist licensure act or other applicable state law, a participating state may jointly investigate licensees with other participating states.

(b) Participating states shall share any significant investigative information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(7)(a) After a licensee's compact privilege in a remote state is terminated, the remote state may continue an investigation of the licensee that began when the licensee had a compact privilege in that remote state.

(b) If the investigation yields what would be significant investigative information had the licensee continued to have a compact privilege in that remote state, the remote state shall report the presence of such information to the data system as required by section 8(2)(f) of this act as if it was significant investigative information.

NEW SECTION. **Sec. 7.** (1) The compact participating states hereby create and establish a joint government agency whose membership consists of all participating states that have enacted the compact. The commission is an instrumentality of the participating states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in section 11(1) of this act.

(2)(a) Each participating state shall have and be limited to one commissioner selected by that participating state's state licensing authority or, if the state has more than one state licensing authority, selected collectively by the state licensing authorities.

(b) The commissioner shall be a member or designee of such authority or authorities.

(c) The commission may by rule or bylaw establish a term of office for commissioners and may by rule or bylaw establish term limits.

(d) The commission may recommend to a state licensing authority or authorities, as applicable, removal or suspension of an individual as the state's commissioner.

(e) A participating state's state licensing authority or authorities, as applicable, shall fill any vacancy of its commissioner on the commission within 60 days of the vacancy.

(f) Each commissioner shall be entitled to one vote on all matters that are voted upon by the commission.

(g) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, videoconference, or other similar electronic means.

(3) The commission shall have the following powers:

(a) Establish the fiscal year of the commission;

(b) Establish a code of conduct and conflict of interest policies;

(c) Adopt rules and bylaws;

(d) Maintain its financial records in accordance with the bylaws;

(e) Meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(f) Initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing authority to sue or be sued under applicable law shall not be affected;

(g) Maintain and certify records and information provided to a participating state as the authenticated business records

of the commission, and designate a person to do so on the commission's behalf;

(h) Purchase and maintain insurance and bonds;

(i) Borrow, accept, or contract for services of personnel including, but not limited to, employees of a participating state;

(j) Conduct an annual financial review;

(k) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(l) As set forth in the commission rules, charge a fee to a licensee for the grant of a compact privilege in a remote state and thereafter, as may be established by commission rule, charge the licensee a compact privilege renewal fee for each renewal period in which that licensee exercises or intends to exercise the compact privilege in that remote state. Nothing herein shall be construed to prevent a remote state from charging a licensee a fee for a compact privilege or renewals of a compact privilege, or a fee for the jurisprudence requirement if the remote state imposes such a requirement for the grant of a compact privilege;

(m) Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(n) Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

(o) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(p) Establish a budget and make expenditures;

(q) Borrow money;

(r) Appoint committees, including standing committees, which may be composed of members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(s) Provide and receive information from, and cooperate with, law enforcement agencies;

(t) Elect a chair, vice chair, secretary, treasurer, and such other officers of the commission as provided in the commission's bylaws;

(u) Establish and elect an executive board;

(v) Adopt and provide to the participating states an annual report;

(w) Determine whether a state's enacted compact is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(x) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

(4)(a) All meetings of the commission that are not closed pursuant to this subsection shall be open to the public. Notice of public meetings shall be posted on the commission's website at least 30 days prior to the public meeting.

(b) Notwithstanding (a) of this subsection, the commission may convene an emergency public meeting by providing at least 24 hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it may dispense with notice of proposed rule making under section 9(12) of this act. The commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

(c) Notice of all commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, videoconference, or other electronic means, the notice shall include the mechanism for access to the meeting through such means.

(d) The commission may convene in a closed, nonpublic meeting for the commission to receive legal advice or to discuss:

(i) Noncompliance of a participating state with its obligations under the compact;

(ii) The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(iii) Current or threatened discipline of a licensee or compact privilege holder by the commission or by a participating state's licensing authority;

(iv) Current, threatened, or reasonably anticipated litigation;

(v) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(vi) Accusing any person of a crime or formally censuring any person;

(vii) Trade secrets or commercial or financial information that is privileged or confidential;

(viii) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(ix) Investigative records compiled for law enforcement purposes;

(x) Information related to any investigative reports prepared by, on behalf of, or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(xi) Legal advice;

(xii) Matters specifically exempted from disclosure to the public by federal or participating state law; and

(xiii) Other matters as promulgated by the commission by rule.

(e) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(f) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(5) (a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

(c) The commission may levy on and collect an annual assessment from each participating state and impose fees on licensees of participating states when a compact privilege is granted to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each fiscal year for which sufficient revenue is not provided by other sources. The aggregate annual assessment amount for participating states shall be allocated based upon a formula that the commission shall promulgate by rule.

(d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any participating state, except by and with the authority of the participating state.

(e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(6) (a) The executive board shall have the power to act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive board shall include:

(i) Overseeing the day-to-day activities of the administration of the compact including compliance with the provisions of the compact and the commission's rules and bylaws;

(ii) Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact participating states, fees charged to licensees, and other fees;

(iii) Ensuring compact administration services are appropriately provided, including by contract;

(iv) Preparing and recommending the budget;

(v) Maintaining financial records on behalf of the commission;

(vi) Monitoring compact compliance of participating states and providing compliance reports to the commission;

(vii) Establishing additional committees as necessary;

(viii) Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(ix) Other duties as provided in the rules or bylaws of the commission.

(b) The executive board shall be composed of up to seven members:

(i) The chair, vice chair, secretary, and treasurer of the commission, and any other members of the commission who serve on the executive board, shall be voting members of the executive board; and

(ii) Other than the chair, vice chair, secretary, and treasurer, the commission may elect up to three voting members from the current membership of the commission.

(c) The commission may remove any member of the executive board as provided in the commission's bylaws.

(d) The executive board shall meet at least annually.

(i) An executive board meeting at which it takes or intends to take formal action on a matter shall be open to the public, except that the executive board may meet in a closed, nonpublic session of a public meeting when dealing with any of the matters covered under subsection (4)(d) of this section.

(ii) The executive board shall give five business days' notice of its public meetings, posted on its website and as it may otherwise determine to provide notice to persons with an interest in the public matters the executive board intends to address at those meetings.

(e) The executive board may hold an emergency meeting when acting for the commission to:

(i) Meet an imminent threat to public health, safety, or welfare;

(ii) Prevent a loss of commission or participating state funds; or

(iii) Protect public health and safety.

(7) (a) The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing in this subsection (7)(a) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(b) The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(c) Notwithstanding (a) of this subsection, should any member, officer, executive director, employee, or representative of the commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the commission, or that the person to whom that individual is liable had a reasonable basis for believing occurred within the scope of the individual's employment, duties, or responsibilities for the commission, the commission shall indemnify and hold harmless such individual, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of the individual.

(d) Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(e) Nothing in this compact shall be interpreted to waive or otherwise abrogate a participating state's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman act, Clayton act, or any other state or federal antitrust or anticompetitive law or regulation.

(f) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the participating states or by the commission.

NEW SECTION. **Sec. 8.** (1) The commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, adverse action, and the presence of significant investigative information on all licensees and applicants for a license in participating states.

(2) Notwithstanding any other provision of state law to the contrary, a participating state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(a) Identifying information;

(b) Licensure data;

(c) Adverse actions against a licensee, license applicant, or compact privilege and information related thereto;

(d) Nonconfidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation;

(e) Any denial of an application for licensure, and the reason or reasons for such denial, excluding the reporting of any criminal history record information where prohibited by law;

(f) The presence of significant investigative information; and

(g) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(3) The records and information provided to a participating state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, shall constitute the authenticated business records of the commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a participating state.

(4) Significant investigative information pertaining to a licensee in any participating state will only be available to other participating states.

(5) It is the responsibility of the participating states to monitor the database to determine whether adverse action has been taken against a licensee or license applicant. Adverse action information pertaining to a licensee or license applicant in any participating state will be available to any other participating state.

(6) Participating states contributing information to the data system may designate information that may not be shared with the public without the express permission of the participating state.

(7) Any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the participating state contributing the information shall be removed from the data system.

NEW SECTION. **Sec. 9.** (1) The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. A commission rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rule-making authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

(2) The rules of the commission shall have the force of law in each participating state, provided however that where the rules of the commission conflict with the laws of the participating state that establish the participating state's scope of practice as held by a court of competent jurisdiction, the rules of the commission shall be

ineffective in that state to the extent of the conflict.

(3) The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules shall become binding as of the date specified by the commission for each rule.

(4) If a majority of the legislatures of the participating states rejects a commission rule or portion of a commission rule, by enactment of a statute or resolution in the same manner used to adopt the compact, within four years of the date of adoption of the rule, then such rule shall have no further force and effect in any participating state or to any state applying to participate in the compact.

(5) Rules shall be adopted at a regular or special meeting of the commission.

(6) Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

(7) Prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rule making:

(a) On the website of the commission or other publicly accessible platform;

(b) To persons who have requested notice of the commission's notices of proposed rule making; and

(c) In such other way or ways as the commission may by rule specify.

(8) The notice of proposed rule making shall include:

(a) The time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

(b) If the hearing is held via telecommunication, videoconference, or other electronic means, the commission shall include the mechanism for access to the hearing in the notice of proposed rule making;

(c) The text of the proposed rule and the reason therefor;

(d) A request for comments on the proposed rule from any interested person; and

(e) The manner in which interested persons may submit written comments.

(9) All hearings will be recorded. A copy of the recording and all written comments and documents received by the commission in response to the proposed rule shall be available to the public.

(10) Nothing in this section shall be construed as requiring a separate hearing on each commission rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(11) The commission shall, by majority vote of all commissioners, take final action on the proposed rule based on the rule-making record.

(a) The commission may adopt changes to the proposed rule provided the changes do

not enlarge the original purpose of the proposed rule.

(b) The commission shall provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

(c) The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection (12) of this section, the effective date of the rule shall be no sooner than 30 days after the commission issuing the notice that it adopted or amended the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' notice, with opportunity to comment, provided that the usual rule-making procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or participating state funds;

(c) Meet a deadline for the promulgation of a rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

(14) No participating state's rule-making requirements shall apply under this compact.

**NEW SECTION. Sec. 10.** (1)(a) The executive and judicial branches of state government in each participating state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the



selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

(c) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact or commission rule and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2)(a) If the commission determines that a participating state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(b) The commission shall provide a copy of the notice of default to the other participating states.

(3) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of participation in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority or authorities, as applicable, and each of the participating states' state licensing authority or authorities, as applicable.

(5) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) Upon the termination of a state's participation in this compact, that state shall immediately provide notice to all licensees of the state, including licensees of other participating states issued a compact privilege to practice within that state, of such termination. The terminated state shall continue to recognize all compact privileges then in effect in that state for a minimum of 180 days after the date of said notice of termination.

(7) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(8) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(9)(a) Upon request by a participating state, the commission shall attempt to resolve disputes related to the compact that arise among participating states and between participating states and nonparticipating states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(10)(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact and the commission's rules.

(b) By majority vote, the commission may initiate legal action against a participating state in default in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting participating state's law.

(c) A participating state may initiate legal action against the commission in the United States district court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(d) No individual or entity other than a participating state may enforce this compact against the commission.

**NEW SECTION. Sec. 11.** (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh participating state.

(a) On or after the effective date of the compact, the commission shall convene and review the enactment of each of the states that enacted the compact prior to the commission convening ("charter participating states") to determine if the statute enacted by each such charter participating state is materially different than the model compact.

(i) A charter participating state whose enactment is found to be materially different from the model compact shall be entitled to the default process set forth in section 10 of this act.

(ii) If any participating state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of participating states should be less than seven.

(b) Participating states enacting the compact subsequent to the charter participating states shall be subject to the process set forth in section 7(3)(w) of this act to determine if their enactments are materially different from the model compact and whether they qualify for participation in the compact.

(c) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(d) Any state that joins the compact subsequent to the commission's initial adoption of the rules and bylaws shall be subject to the commission's rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(2) Any participating state may withdraw from this compact by enacting a statute repealing that state's enactment of the compact.

(a) A participating state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority or authorities to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(c) Upon the enactment of a statute withdrawing from this compact, the state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all compact privileges to practice within that state granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

(3) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a participating state and a nonparticipating state that does not conflict with the provisions of this compact.

(4) This compact may be amended by the participating states. No amendment to this compact shall become effective and binding upon any participating state until it is enacted into the laws of all participating states.

NEW SECTION. **Sec. 12.** (1) This compact and the commission's rule-making authority shall be liberally construed so as

to effectuate the purposes, and the implementation and administration, of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rule-making authority solely for those purposes.

(2) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any participating state, a state seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

(3) Notwithstanding subsection (2) of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of section 10(2) of this act, terminate a participating state's participation in the compact, if it determines that a constitutional requirement of a participating state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining participating states and in full force and effect as to the participating state affected as to all severable matters.

NEW SECTION. **Sec. 13.** (1) Nothing in this chapter shall prevent or inhibit the enforcement of any other law of a participating state that is not inconsistent with the compact.

(2) Any laws, statutes, regulations, or other legal requirements in a participating state in conflict with the compact are superseded to the extent of the conflict.

(3) All permissible agreements between the commission and the participating states are binding in accordance with their terms.

NEW SECTION. **Sec. 14.** Sections 1 through 13 of this act constitute a new chapter in Title 18 RCW."

On page 1, line 1 of the title, after "compact;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; and providing a contingent effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1576 and advanced the bill, as amended by the Senate, to final passage.

Representatives Caldier and Slatter spoke in favor of the passage of the bill.

**FINAL PASSAGE OF HOUSE BILL AS SENATE  
AMENDED**

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1576, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1576, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1576, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1600, with the following amendment(s): 1600-S.E AMS LAW S2515.1

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The juvenile respondent's presence is not required at any administrative sealing hearing.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated end date of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) The court shall not schedule an administrative sealing hearing at the disposition and no administrative sealing hearing shall occur if one of the offenses for which the court has entered a disposition is at the time of commission of the offense:

(i) A most serious offense, as defined in RCW 9.94A.030;

(ii) A sex offense under chapter 9A.44 RCW; or

(iii) A drug offense, as defined in RCW 9.94A.030.

(d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing the respondent's juvenile court record pursuant to this subsection if the court finds by a preponderance of the evidence that the respondent is no longer on supervision for the case being considered for sealing and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage. In determining whether the respondent is on supervision or owes restitution, the court shall take judicial notice of court records, including records of the county clerk, and, if necessary, sworn testimony from a representative of the juvenile department.

(e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

(f)(i) During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case being considered for sealing, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court shall deny sealing the juvenile court record in a written order that: (A) Specifies the amount of restitution that remains unpaid to the original victim, excluding any public or private entity providing insurance coverage or health care coverage; and (B) provides direction to the respondent on how to pursue the sealing of records associated with this cause of action.

(ii) Within five business days of the entry of the written order denying the request to seal a juvenile court record, the juvenile court department staff shall notify

the respondent of the denial by providing a copy of the order of denial to the respondent in person or in writing mailed to the respondent's last known address in the department of licensing database or the respondent's address provided to the court, whichever is more recent.

(iii) At any time following entry of the written order denying the request to seal a juvenile court record, the respondent may contact the juvenile court department, provide proof of payment of the remaining unpaid restitution to the original victim, excluding any public or private entity providing insurance coverage or health care coverage, and request an administrative sealing hearing. Upon verification of the satisfaction of the restitution payment, the juvenile court department staff shall circulate for signature an order sealing the file, and file the signed order with the clerk's office, who shall seal the record.

(iv) The administrative office of the courts must ensure that sealed juvenile records remain private in case of an appeal and are either not posted or redacted from any clerks papers that are posted online with the appellate record, as well as taking any other prudent steps necessary to avoid exposing sealed juvenile records to the public.

(2) Except for dismissal of a deferred disposition under RCW 13.40.127, the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any; resolve the status of any debts owing; and, subject to RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW 13.50.050(13).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

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

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

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

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty

to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

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

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

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

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never

occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides Washington state criminal justice agencies access to sealed juvenile records information.

(e) The Washington state patrol shall ensure that the Washington state identification system provides non-Washington criminal justice agencies access to sealed juvenile records only for the purposes of processing and purchasing firearms, concealed pistol licenses, or alien firearms licenses, or releasing of firearms from evidence.

(f) Non-Washington criminal justice agencies that access sealed juvenile records pursuant to this subsection shall not knowingly disseminate the accessed records or any information derived therefrom to any third party. Dissemination of such records or such information shall subject the disseminating agency to the jurisdiction of the courts of Washington and a civil penalty of not more than \$1,000 per violation.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her

parents, restitution recipients, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

(12) All criminal justice agencies must not disclose confidential information or sealed records accessed through the Washington state identification system or other means, and no information can be given to third parties, other than ((Washington state)) criminal justice agencies, about the existence or nonexistence of confidential or sealed records concerning an individual."

On page 1, line 2 of the title, after "purposes;" strike the remainder of the title and insert "amending RCW 13.50.260; and prescribing penalties."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1600 and advanced the bill, as amended by the Senate, to final passage.

Representatives Goodman and Walsh spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1600, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1600, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1600, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1621, with the following amendment(s): 1621-S AMS LGLT S2730.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 54.04.070 and 2019 c 434 s 7 are each amended to read as follows:

(1) Any item, or items of the same kind of materials, equipment, or supplies purchased, the estimated cost of which is in excess of ~~((thirty thousand dollars))~~ \$30,000, exclusive of sales tax, shall be by contract. However, a district may make purchases of the same kind of items of materials, equipment, and supplies not exceeding ~~((twelve thousand dollars))~~ \$12,000 in any calendar month without a contract, purchasing any excess thereof over ~~((twelve thousand dollars))~~ \$12,000 by contract.

(2) Any work ordered by a district commission, the estimated cost of which is in excess of ~~((fifty thousand dollars, exclusive of sales tax))~~ \$150,000 exclusive of sales tax if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 exclusive of sales tax if only a single craft or trade is involved with the public works project, shall be by contract. However, a district commission may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding ~~((three hundred thousand dollars))~~ \$300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) Before awarding a contract required under subsection (1) or (2) of this section, the commission shall publish a notice once or more in a newspaper of general circulation in the district at least ~~((thirteen))~~ 13 days before the last date upon which bids will be received, inviting sealed proposals for the work or materials. Plans and specifications for the work or materials shall at the time of publication be on file at the office of the district and subject to public inspection. Any published notice ordering work to be performed for the district shall be mailed at the time of publication to any established trade association which files a written request with the district to receive such notices. The commission may, at the same time and as part of the same notice, invite tenders for the work or materials upon plans and

specifications to be submitted by the bidders.

(4) As an alternative to the competitive bidding requirements of this section and RCW 54.04.080, a district may let contracts using the small works roster process under RCW 39.04.155.

(5) Whenever equipment or materials required by a district are held by a governmental agency and are available for sale but such agency is unwilling to submit a proposal, the commission may ascertain the price of such items and file a statement of such price supported by the sworn affidavit of one member of the commission, and may consider such price as a bid without a deposit or bond.

(6) Pursuant to RCW 39.04.280, the commission may waive the competitive bidding requirements of this section and RCW 54.04.080 if an exemption contained within RCW 39.04.280 applies to the purchase or public work.

(7)(a) A district may procure public works with a unit priced contract under this section, RCW 54.04.080, or 54.04.085 for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, unit priced contract means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of a district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price, for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Where electrical facility construction or improvement work is anticipated, contractors on a unit priced contract shall comply with the requirements under RCW 54.04.085 (1) through (5). Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ~~((twelve-month))~~ 12-month period of the unit priced contract.

(8) For the purposes of this section, "lowest responsible bidder" means a bid that

meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district commission issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the commission does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the commission may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

**Sec. 2.** RCW 35.23.352 and 2019 c 434 s 1 are each amended to read as follows:

(1) Any second-class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of ~~((one hundred sixteen thousand one hundred fifty-five dollars))~~ \$150,000 if more than one craft or trade is involved with the public works, or ~~((seventy-five thousand five hundred dollars))~~ \$75,500 if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project. However, a second-class city or any town may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For purposes of this section, "equipment" includes, but is not limited to, conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least ~~((thirteen))~~ 13 days prior to the last date upon which bids will be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time

specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ~~((ten))~~ 10 days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

(3) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(4) In lieu of the procedures of subsection (1) of this section, a second-class city or a town may let contracts using the small works roster process provided in RCW 39.04.155.

Whenever possible, the city or town shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(5) The form required by RCW 43.09.205 shall be to account and record costs of public works in excess of ~~((five thousand dollars))~~ \$5,000 that are not let by contract.

(6) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(7) Any purchase of supplies, material, or equipment, except for public work or improvement, ~~((where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids))~~ with an estimated cost in excess of \$40,000, shall be by contract. Any purchase of materials, supplies, or equipment with an estimated cost of less than \$50,000 shall be made using the process provided in RCW 39.04.190.

(8) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(9) For advertisement and formal sealed bidding to be dispensed with as to purchases with an estimated value of ~~((fifteen thousand dollars))~~ \$15,000 or less, the council or commission must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(10) The city or town legislative authority may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(11) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020 ~~((+4))~~ (6), that are negotiated under chapter 39.35A RCW.

(12) Nothing in this section shall prohibit any second-class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(13) (a) Any second-class city or any town may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city or town, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city or town having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city or town will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city or

town must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intentions and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ~~((twelve-month))~~ 12-month period of the unit priced contract.

(14) Any second-class city or town that awards a project to a bidder under the criteria described in subsection (2) of this section must make an annual report to the department of commerce that includes the total number of bids awarded to certified minority or women contractors and describing how notice was provided to potential certified minority or women contractors.

**Sec. 3.** RCW 35.22.620 and 2019 c 434 s 11 are each amended to read as follows:

(1) As used in this section, the term "public works" means as defined in RCW 39.04.010.

(2) A first-class city may have public works performed by contract pursuant to public notice and call for competitive bids. As limited by subsection (3) of this section, a first-class city may have public works performed by city employees in any annual or biennial budget period equal to a dollar value not exceeding ~~((ten))~~ 10 percent of the public works construction budget, including any amount in a supplemental public works construction budget, over the budget period. The amount of public works that a first-class city has a county perform for it under RCW 35.77.020 shall be included within this ~~((ten))~~ 10 percent limitation.

If a first-class city has public works performed by public employees in any budget period that are in excess of this ~~((ten))~~ 10 percent limitation, the amount in excess of the permitted amount shall be reduced from the otherwise permitted amount of public works that may be performed by public employees for that city in its next budget period. Twenty percent of the motor vehicle fuel tax distributions to that city shall be withheld if two years after the year in which the excess amount of work occurred, the city has failed to so reduce the amount of public works that it has performed by public employees. The amount so withheld shall be distributed to the city when it has demonstrated in its reports to the state auditor that the amount of public works it has performed by public employees has been so reduced.

Whenever a first-class city has had public works performed in any budget period up to the maximum permitted amount for that budget period, all remaining public works within that budget period shall be done by contract pursuant to public notice and call for competitive bids.



The state auditor shall report to the state treasurer any first-class city that exceeds this amount and the extent to which the city has or has not reduced the amount of public works it has performed by public employees in subsequent years.

(3) In addition to the percentage limitation provided in subsection (2) of this section, a first-class city shall not have public employees perform a public works project in excess of ~~((one hundred fifty thousand dollars))~~ \$150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of ~~((seventy-five thousand five hundred dollars))~~ \$75,500 if only a single craft or trade is involved with the public works project or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project. However, a first-class city may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For purposes of this section, the term "equipment" includes, but is not limited to, conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(4) In addition to the accounting and recordkeeping requirements contained in RCW 39.04.070, every first-class city annually may prepare a report for the state auditor indicating the total public works construction budget and supplemental public works construction budget for that year, the total construction costs of public works performed by public employees for that year, and the amount of public works that is performed by public employees above or below ~~((ten))~~ 10 percent of the total construction budget. However, if a city budgets on a biennial basis, this annual report may indicate the amount of public works that is performed by public employees within the current biennial period that is above or below ~~((ten))~~ 10 percent of the total biennial construction budget.

Each first-class city with a population of ~~((one hundred fifty thousand))~~ 150,000 or less shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of ~~((five thousand dollars))~~ \$5,000 that are not let by contract.

(5) The cost of a separate public works project shall be the costs of materials, supplies, equipment, and labor on the construction of that project. The value of the public works budget shall be the value of all the separate public works projects within the budget.

(6) The competitive bidding requirements of this section may be waived by the city legislative authority pursuant to RCW 39.04.280 if an exemption contained within that section applies to the work or contract.

(7) In lieu of the procedures of subsections (2) and (6) of this section, a first-class city may let contracts using the small works roster process in RCW 39.04.155.

Whenever possible, the city shall invite at least one proposal from a certified minority or woman contractor who shall otherwise qualify under this section.

(8) The allocation of public works projects to be performed by city employees shall not be subject to a collective bargaining agreement.

(9) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020 ~~((+4))~~ (6), that are negotiated under chapter 39.35A RCW.

(10) Nothing in this section shall prohibit any first-class city from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

(11)(a) Any first-class city may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the city, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed three years, with the city having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids shall include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the city will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the city must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ~~((twelve-month))~~ 12-month period of the unit priced contract.

(12) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the city issues a written finding that the lowest bidder has delivered a project to the city within the last three years which was late, over budget, or did not meet specifications, and the city does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the city may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

**Sec. 4.** RCW 57.08.050 and 2019 c 434 s 10 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of ~~((fifty thousand dollars))~~ \$150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 if only a single craft or trade is involved with the public works project, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least once ~~((thirteen))~~ 13 days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to

the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ~~((ten))~~ 10 days from the date at which the bidder is notified that the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a water-sewer district may let contracts using the small works roster process under RCW 39.04.155.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of ~~((forty thousand dollars))~~ \$40,000, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than ~~((fifty thousand dollars))~~ \$50,000 shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of ~~((fifty thousand dollars))~~ \$50,000 or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a water-sewer district may let contracts for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(6)(a) A district may procure public works with a unit priced contract under this section for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.

(b) For the purposes of this section, "unit priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operational needs of the district, under which the contractor agrees to a fixed period indefinite quantity delivery of work, at a defined unit price for each category of work.

(c) Unit priced contracts must be executed for an initial contract term not to exceed one year, with the district having the option of extending or renewing the unit priced contract for one additional year.

(d) Invitations for unit price bids must include, for purposes of the bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the district will issue or release work assignments, work orders, or task authorizations pursuant to a unit priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts must be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the district must invite at least one proposal from a certified minority or woman contractor who otherwise qualifies under this section.

(e) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit priced contracts must have prevailing wage rates updated annually. Intents and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous ~~((twelve-month))~~ 12-month period of the unit priced contract.

(7) A water-sewer district may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(8) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the district does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the district may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

**Sec. 5.** RCW 52.14.110 and 2019 c 434 s 12 are each amended to read as follows:

(1) Insofar as practicable, purchases and any public works by the district shall be based on competitive bids. A formal sealed bid procedure shall be used as standard

procedure for purchases and contracts for purchases executed by the board of commissioners. Formal sealed bidding shall not be required for:

~~((1))~~ (a) The purchase of any materials, supplies, or equipment if the cost will not exceed the sum of ~~((forty thousand dollars))~~ \$75,500. However, whenever the estimated cost does not exceed ~~((seventy-five thousand dollars))~~ \$150,000, the commissioners may by resolution use the process provided in RCW 39.04.190 to award contracts;

~~((2))~~ (b) Contracting for work to be done involving the construction or improvement of a fire station or other buildings where the estimated cost will not exceed the sum of ~~((thirty thousand dollars, which includes the costs of labor, material, and equipment))~~ \$150,000 if more than a single craft or trade is involved with the public works project, or a public works project in excess of \$75,500 if only a single craft or trade is involved with the public works project;

~~((3))~~ (c) Contracts using the small works roster process under RCW 39.04.155; and

~~((4))~~ (d) Any contract for purchases or public work pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

(2) A fire protection district may have its own regularly employed personnel perform work which is an accepted industry practice under prudent utility management without a contract. For purposes of this section, "prudent utility management" means performing work with regularly employed personnel utilizing material of a worth not exceeding \$300,000 in value without a contract. This limit on the value of material being utilized in work being performed by regularly employed personnel shall not include the value of individual items of equipment. For the purposes of this section, the term "equipment" includes but is not limited to conductor, cabling, wire, pipe, or lines used for electrical, water, fiber optic, or telecommunications.

(3) For the purposes of this section, "lowest responsible bidder" means a bid that meets the criteria under RCW 39.04.350 and has the lowest bid; provided, that if the district issues a written finding that the lowest bidder has delivered a project to the district within the last three years which was late, over budget, or did not meet specifications, and the district does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications then the district may choose the second lowest bidder whose bid is within five percent of the lowest bid and meets the same criteria as the lowest bidder.

**NEW SECTION. Sec. 6.** The capital projects advisory review board shall review this act and make recommendations to the appropriate committees of the legislature by December 31, 2023.

**NEW SECTION. Sec. 7.** Sections 1 through 5 of this act take effect June 30, 2024."

On page 1, line 3 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 54.04.070, 35.23.352, 35.22.620, 57.08.050, and 52.14.110; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1621 and advanced the bill, as amended by the Senate, to final passage.

Representatives Ryu and Goehner spoke in favor of the passage of the bill.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1621, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1621, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

SUBSTITUTE HOUSE BILL NO. 1621, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1622, with the following amendment(s): 1622 AMS EDU S2362.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.542 and 2019 c 412 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall create a competitive grant process to evaluate and award state-funded grants to school districts to increase identification of students experiencing homelessness and the

capacity of the districts to provide support for students experiencing homelessness. The goals of the grant process are to:

(a) Provide educational stability for students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between education and housing partners.

(2) (a) Funds may be used in a manner that is complementary to federal McKinney-Vento funds and consistent with allowable uses as determined by the office of the superintendent of public instruction. The process must complement any similar federal grant program or programs in order to minimize agency overhead and administrative costs for the superintendent of public instruction and school districts.

(b) Examples of permitted student supports and activities include, but are not limited to:

(i) Direct academic supports, including tutoring and additional transportation costs;

(ii) Basic needs, including retail store cards, nutrition supports, and hygiene items;

(iii) Wraparound supports, including contracting with community-based providers, behavioral and physical health supports, and housing-related supports, such as bedding and short-term hotel or motel stays, that meet a student's emergent needs and allow the student to fully participate in school;

(iv) Employment supports for students and families; and

(v) Out-of-school enrichment activities, such as an academic tutor provided at a shelter.

(3) School districts may access both federal and state funding to identify and support students experiencing homelessness and are encouraged to use grant dollars to leverage community resources and strengthen relationships with community-based partners.

((-2)) (4) Award criteria for the state grants must be based on the demonstrated need of the school district and may consider the number or overall percentage, or both, of homeless children and youths enrolled in preschool, elementary, and secondary schools in the school district, and the ability of the local school district to meet these needs. Award criteria for these must also be based on the quality of the applications submitted. Selected grantees must reflect geographic diversity across the state. Greater weight must be given to districts that demonstrate a commitment to:

(a) Partnering with local ((housing and)) community-based organizations with experience in serving the needs of students experiencing homelessness or students of color, with a preference for organizations that focus on equitable housing and homeless strategies;

(b) Serving the needs of unaccompanied youth; and

(c) Implementing evidence-informed strategies to address the opportunity gap and other systemic inequities that negatively impact students experiencing homelessness and students of color. Specific strategies may include, but are not limited to:

(i) Enhancing the cultural responsiveness of current and future staff;

(ii) Ensuring all staff, faculty, and school employees are actively trained in trauma-informed care;

(iii) Providing inclusive programming by intentionally seeking and utilizing input from the population being served;

(iv) Using a multidisciplinary approach when serving students experiencing homelessness and their families;

(v) Intentionally seeking and utilizing input from the families and students experiencing homelessness about how district policies, services, and practices can be improved; and

(vi) Identifying data elements and systems needed to monitor progress in eliminating disparities in academic outcomes for students experiencing homelessness with their housed peers.

~~((3))~~ (5) At the end of each academic year, districts receiving grants shall monitor and report on the academic outcomes for students served by the grants. The academic outcomes are those recommended by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall review the reports submitted by the districts and assist school districts in using these data to identify gaps and needs, and develop sustainable strategies to improve academic outcomes for students experiencing homelessness.

~~((4))~~ (6) Students experiencing homelessness are defined as students without a fixed, regular, and adequate nighttime residence in accordance with the definition of homeless children and youths in the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

~~((5))~~ (7) School districts may not use funds allocated under this section to supplant existing federal, state, or local resources for supports for students experiencing homelessness, which may include education liaisons.

~~((6))~~ (8) Grants awarded to districts under this section may be for two years.

(9) The office of the superintendent of public instruction and the department of commerce shall:

(a) Collaborate on shared goals and outcomes under the grant process established by this section and the grant program established in RCW 43.185C.340; and

(b) Beginning in 2024, and every two years thereafter, jointly produce and make publicly available a report on the goals and outcomes of the grant process established by this section and the grant program established in RCW 43.185C.340.

**Sec. 2.** RCW 43.185C.340 and 2019 c 412 s 2 and 2019 c 325 s 5015 are each reenacted and amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the department shall administer a grant program that links students experiencing homelessness and their families with stable housing located in the student's school district. The goals of the program are to:

(a) Provide educational stability for students experiencing homelessness by promoting housing stability; and

(b) Encourage the development of collaborative strategies between housing and education partners.

(2) To ensure that innovative strategies between housing and education partners are developed and implemented, the department may contract and consult with a designated vendor to provide technical assistance and program evaluation, ~~((and))~~ assist with making grant awards, and support collaboration between the department and the office of the superintendent of public instruction. If the department contracts with a vendor, the vendor must be selected by the director and:

(a) Be a nonprofit vendor;

(b) Be located in Washington state; and

(c) Have a demonstrated record of working toward the housing and educational stability of students and families experiencing homelessness.

(3) In implementing the program, the department, or the department in partnership with its designated vendor, shall consult with the office of the superintendent of public instruction.

(4) (a) The department, or the designated vendor in consultation with the department, shall develop a competitive grant process to make grant awards to eligible organizations on implementation of the proposal. For the purposes of this subsection, "eligible organization" means any local government, local housing authority, behavioral health administrative services organization established under chapter 71.24 RCW, behavioral health organization, nonprofit community or neighborhood-based organization, federally recognized Indian tribe in the state of Washington, or regional or statewide nonprofit housing assistance organization. Applications for the grant program must include a letter of support from the applicable school districts. Within 60 days of receiving a grant award under this section, a memorandum of understanding must be established between the housing providers and school districts defining the responsibilities and commitments of each party to identify, house, and support students experiencing homelessness. The memorandum must include:

~~((a))~~ (i) How housing providers will partner with school districts to address gaps and needs and develop sustainable strategies to help students experiencing homelessness; and

~~((b))~~ (ii) How data on students experiencing homelessness and their families will be collected and shared in accordance with privacy protections under applicable federal and state laws.

(b) If a memorandum of understanding cannot be established as required by (a) of this subsection, the housing provider and school districts may work with the department on a case-by-case basis to provide, in lieu of a memorandum of understanding, a detailed accountability plan for a partnership between the housing provider and the school districts.

(5) In determining which eligible organizations will receive grants, the

department must ensure that selected grantees reflect geographic diversity across the state. Greater weight shall be given to eligible organizations that demonstrate a commitment to:

(a) Partnering with local schools or school districts as demonstrated by a letter of support; and

(b) Developing and implementing evidence-informed strategies to address racial inequities. Specific strategies may include, but are not limited to:

(i) Hiring direct service staff who reflect the racial, cultural, and language demographics of the population being served;

(ii) Committing to inclusive programming by intentionally seeking and utilizing input from the population being served;

(iii) Ensuring eligibility criteria does not unintentionally screen out people of color and further racial inequity; and

(iv) Creating access points in locations frequented by parents, guardians, and unaccompanied homeless youth of color.

(6) Activities eligible for assistance under this grant program include but are not limited to:

(a) Rental assistance, which includes utilities, security and utility deposits, first and last month's rent, rental application fees, moving expenses, and other eligible expenses to be determined by the department;

(b) Transportation assistance, including gasoline assistance for students and families with vehicles and bus passes;

(c) Emergency shelter;

(d) Housing stability case management; and

(e) Other collaborative housing strategies, including prevention and strength-based safety and housing approaches.

(7)(a) All beneficiaries of funds from the grant program must be from households that include at least one student experiencing homelessness as defined as a child or youth without a fixed, regular, and adequate nighttime residence in accordance with the federal McKinney-Vento homeless assistance act, 42 U.S.C. Sec. 11431 through 11435.

(b) For the purposes of this section, "student experiencing homelessness" includes unaccompanied homeless youth not in the physical custody of a parent or guardian. "Unaccompanied homeless youth" includes students up to the age of twenty-one, in alignment with the qualifications for school admissions under RCW 28A.225.160(1).

(8)(a) Grantee organizations must compile and report information to the department. The department shall report to the legislature the findings of the grantee, the housing stability of the homeless families, and any related policy recommendations.

(b) Grantees must track and report on the following measures including, but not limited to:

(i) Length of time enrolled in the grant program;

(ii) Housing destination at program exit;

(iii) Type of residence prior to enrollment in the grant program; and

(iv) Number of times homeless in the past three years.

(c) Grantees must also include in their reports a narrative description discussing its partnership with school districts as set forth in the memorandum outlined in subsection (4) of this section. Reports must also include the kinds of supports grantees are providing students and families to support academic learning.

(d) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180.

(9) In order to ensure that housing providers are meeting the requirements of the grant program for students experiencing homelessness, the department, or the department in partnership with its designee, shall monitor the program at least once every two years.

(10) Any program review and monitoring under this section may be conducted concurrently with other program reviews and monitoring conducted by the department. In its review, the department, or the department in partnership with its designee, shall monitor program components that include the process used by the eligible organization to identify and reach out to students experiencing homelessness, and other indicators to determine how well the eligible organization is meeting the housing needs of students experiencing homelessness. The department, or the department in partnership with its designee, shall provide technical assistance and support to housing providers to better implement the program.

(11) The department is subject to the requirements established in RCW 28A.300.542(9)."

On page 1, line 2 of the title, after "homelessness;" strike the remainder of the title and insert "amending RCW 28A.300.542; and reenacting and amending RCW 43.185C.340."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1622 and advanced the bill, as amended by the Senate, to final passage.

Representatives Fey and Rude spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1622, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1622, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse,

Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

HOUSE BILL NO. 1622, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Thursday, April 6, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1694, with the following amendment(s): 1694-S2.E AMS HLTC S2568.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.88B.010 and 2012 c 164 s 201 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) "Community residential service business" has the same meaning as defined in RCW 74.39A.009.

(2) "Date of hire" means the first day the long-term care worker is employed by any employer.

(3) "Department" means the department of health.

~~((3))~~ (4) "Home care aide" means a person certified under this chapter.

~~((4))~~ (5) "Individual provider" has the same meaning as defined in RCW 74.39A.009.

~~((5))~~ (6) "Long-term care worker" has the same meaning as defined in RCW 74.39A.009.

~~((6))~~ (7) "Personal care services" has the same meaning as defined in RCW 74.39A.009.

~~((7))~~ (8) "Secretary" means the secretary of the department of health.

"**Sec. 2.** RCW 18.88B.021 and 2021 c 203 s 10 are each amended to read as follows:

(1) Beginning January 7, 2012, except as provided in RCW 18.88B.041, any person hired as a long-term care worker must be certified as a home care aide as provided in this chapter within ~~((two hundred))~~ 200 calendar days after the date of hire ~~((, as defined by the department. The department may adopt rules determining under which circumstances a long-term care worker may have more than one date of hire, restarting the person's 200-day period to obtain certification as a home care aide))~~. A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(2) (a) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified as provided in this chapter.

(b) This section does not prohibit a person: (i) From practicing a profession for which the person has been issued a license or which is specifically authorized under this state's laws; or (ii) who is exempt from certification under RCW 18.88B.041 from providing services as a long-term care worker.

(c) In consultation with consumer and worker representatives, the department shall, by January 1, 2013, establish by rule a single scope of practice that encompasses both long-term care workers who are certified home care aides and long-term care workers who are exempted from certification under RCW 18.88B.041.

(3) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete certification as required by this section, the department may adopt rules to allow long-term care workers additional time to become certified.

(a) Rules adopted under this subsection (3) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that additional time for long-term care workers to become certified is no longer necessary, whichever is later. Once the department determines a rule adopted under this subsection (3) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of certification compliance with subsection (1) of this section and rules adopted under this subsection (3) and provide the legislature with a report.

(4) The department shall adopt rules to implement this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 18.88B RCW to read as follows:

(1) A certificate that has been expired for five years or less may be reinstated if the person holding the expired certificate:

(a) Completes an abbreviated application form;

(b) Pays any necessary fees, including the current certification fee, late renewal fees, and expired credential reissuance fees, unless exempt pursuant to section 4 of this act;

(c) Provides a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the person holding the expired certificate from practicing as a home care aide;

(d) Provides a written declaration that the person holding the expired certificate has not voluntarily given up any credential or privilege or has not been restricted from practicing as a home care aide in lieu of or to avoid formal action; and

(e) Submits to a state and federal background check as required by RCW 74.39A.056, if the certificate has been expired for more than one year.

(2) In addition to meeting the requirements of subsection (1) of this section, a certificate that has been expired for more than five years may be reinstated if the person holding the expired certificate demonstrates competence to the standards established by the secretary and meets other requirements established by the secretary.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.88B RCW to read as follows:

(1) Beginning September 1, 2023, a person whose home care aide certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements determined necessary by the department to return to active status.

(2) The department shall send a notification to the last known address of each person who held a certificate under this chapter and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department must allow six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) The department and the department of social and health services, as applicable, shall adopt rules to assure that continuing education requirements are not a barrier for persons seeking to reactivate their certificates under this chapter.

(4) This section expires July 1, 2025.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.88A RCW to read as follows:

(1) Beginning September 1, 2023, a person whose nursing assistant certificate has been expired for more than six months and less than two years who seeks to restore the certificate to active status is exempt from the payment of any late renewal fee or current renewal fee if the person complies with all other certification requirements determined necessary by the department to return to active status.

(2) The department shall send a notification to the last known address of each person who held a certificate under this chapter and, since January 1, 2020, failed to renew the certificate to inform the person that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section. For persons who have allowed their certificates to expire since January 1, 2023, the department must allow

six months to pass since the expiration prior to contacting them to inform them that a certificate may be restored without a financial penalty or payment of a renewal fee under subsection (1) of this section.

(3) The department shall adopt rules to assure that continuing education requirements are not a barrier for persons seeking to reactivate their certificates under this chapter.

(4) This section expires July 1, 2025.

**Sec. 6.** RCW 74.39A.341 and 2021 c 203 s 9 are each amended to read as follows:

(1) All long-term care workers shall complete twelve hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

(a) An individual provider caring only for his or her biological, step, or adoptive child;

(b) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(c) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

~~((e))~~ (d) Before January 1, 2016, a long-term care worker employed by a community residential service business;

~~((d))~~ (e) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; ~~((e))~~

~~((e))~~ (f) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year; or

(g) A person whose certificate has been expired for less than five years who seeks to restore the certificate to active status. The person does not need to complete continuing education requirements in order for their certificate to be restored to active status. Subsection (1) of this section applies to persons once the certificate has been restored to active status, beginning on the date the certificate is restored to active status.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to



complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (6) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (6) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(7) The department of health shall adopt rules to implement subsection (1) of this section.

(8) The department shall adopt rules to implement subsection (2) of this section.

**Sec. 7.** RCW 18.88B.041 and 2019 c 363 s 20 are each amended to read as follows:

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long-term care worker prior to January 7, 2012, and who completes all of the training requirements in effect as of the date the person was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c)(i) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent; and

(ii) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(f) A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW.

(g) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) The department shall adopt rules to implement this section.

**Sec. 8.** RCW 74.39A.076 and 2021 c 203 s 8 are each amended to read as follows:

(1) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a):

(a) A biological, step, or adoptive parent who is the individual provider only for the person's developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of ((adults)) individuals with developmental disabilities within the first one hundred twenty days after becoming an individual provider.

(b) A spouse or registered domestic partner who is a long-term care worker only for a spouse or domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW, must receive fifteen hours of basic training, and at least six hours of additional focused training based on the care-receiving spouse's or partner's needs, within the first one hundred twenty days after becoming a long-term care worker.

(c) A person working as an individual provider who (i) provides respite care services only for individuals with developmental disabilities receiving services under Title 71A RCW or only for individuals who receive services under this chapter, and (ii) works three hundred hours or less in any calendar year, must complete fourteen hours of training within the first one hundred twenty days after becoming an individual provider. Five of the fourteen hours must be completed before becoming eligible to provide care, including two hours of orientation training regarding the caregiving role and terms of employment and three hours of safety training. The training partnership identified in RCW 74.39A.360 must offer at least twelve of the fourteen hours online, and five of those online hours must be individually selected from elective courses.

(d) Individual providers identified in (d)(i) or (ii) of this subsection must complete thirty-five hours of training within the first one hundred twenty days after becoming an individual provider. Five of the thirty-five hours must be completed

before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(i) (A) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent unless covered by (a) of this subsection; and

(B) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; ((and))

(ii) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; and

(iii) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(2) In computing the time periods in this section, the first day is the date of hire.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(4) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(5) The department shall adopt rules to implement this section.

NEW SECTION. Sec. 9. A new section is added to chapter 74.39A RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose,

beginning June 1, 2025, the department shall annually report on the status of:

(1) The long-term care worker supply;

(2) The average wages of long-term care workers compared to entry-level positions in other industries;

(3) Projections of service demands;

(4) Geographic disparities in the supply of long-term care workers; and

(5) Any race, gender, or other worker demographic data available through preexisting administrative data sources.

NEW SECTION. Sec. 10. The department of social and health services shall design a pilot project to allow the spouse or domestic partner of a person with complex medical needs who is eligible for long-term services and supports through the department of social and health services to receive payment for providing home care services to the spouse or domestic partner. The design shall consider the appropriate acuity level of the care-receiving spouse or domestic partner, the training needs of the care-providing spouse or domestic partner, payment parameters, fiscal considerations and use of medicaid matching funds, geographic locations for implementing the pilot project, ways to design the project to aid in future statewide implementation, cost estimates for implementing the pilot project, cost estimates for implementing a pilot project expansion, projected number of individuals to be served, a proposed timeline for implementation of the pilot project, and a proposed timeline for implementation of an expanded pilot project. The department of social and health services shall submit the pilot project design to the office of financial management and the appropriate fiscal committees of the legislature by December 31, 2023.

NEW SECTION. Sec. 11. The department of social and health services shall study the feasibility and cost of paying the parents of children under 18 years old who are medically complex or have complex support needs related to their behaviors. The department of social and health services must submit a report to the office of financial management and the appropriate fiscal committees of the legislature by December 31, 2023. The report shall address any statutory or regulatory changes needed to authorize the payments, necessary information technology changes for the agency and associated costs, elements needed to prepare a federal waiver or state plan amendments to allow for the use of federal matching funds for the payments to parents, estimates of the number of children expected to be served, the anticipated annual cost to the state both if federal matching funds are available and if they are not available, recommendations on the types of training needed for parents to support their children's care needs, and a proposed timeline for implementation which may be phased, if necessary.

NEW SECTION. Sec. 12. If specific funding for the purposes of this act,

referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, at the beginning of line 2 of the title, strike the remainder of the title and insert "amending RCW 18.88B.021, 74.39A.341, 18.88B.041, and 74.39A.076; reenacting and amending RCW 18.88B.010; adding new sections to chapter 18.88B RCW; adding a new section to chapter 18.88A RCW; adding a new section to chapter 74.39A RCW; creating new sections; and providing expiration dates."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1694 and advanced the bill, as amended by the Senate, to final passage.

Representatives Alvarado and Schmick spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1694, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1694, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1694, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Friday, March 31, 2023

Mme. Speaker:

The Senate has passed HOUSE BILL NO. 1696, with the following amendment(s): 1696 AMS ENGR S2810.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.46.110 and 2021 c 215 s 111 are each amended to read as follows:

(1) (a) A person commits the crime of stalking if, without lawful authority ~~((and under circumstances not amounting to a felony attempt of another crime:~~

(a) He or she intentionally)) the person:  
(i) Intentionally and repeatedly harasses  
((or repeatedly follows)) another person;

(ii) Intentionally and repeatedly follows another person;

(iii) Intentionally contacts, follows, tracks, or monitors, or attempts to contact, follow, track, or monitor another person after being given actual notice that the person does not want to be contacted, followed, tracked, or monitored; or

(iv) Knowingly and without consent installs or monitors an electronic tracking device, or causes an electronic tracking device to be installed, placed, or used, to track the location of another person; and

(b) The person being harassed ((or)) followed, tracked, or monitored suffers substantial emotional distress or is placed in fear that the stalker intends to injure ((the person)) him or her, or another person, or his or her property ((of the person)) or the property of another person, or, in the circumstances identified in (a)(iv) of this subsection, the victim's knowledge of the tracking device would reasonably elicit substantial emotional distress or fear. The feeling of substantial emotional distress or fear must be one that a reasonable person in the same situation would experience ((under all)) given the totality of the circumstances ((; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person).

(2) (a) It is not a defense to the crime of stalking under subsection (1) ~~((+ (i)))~~ (a) (i), (ii), or (iv) of this section that the stalker was not given actual notice that the person did not want the stalker to contact ((or)) follow ((the person)) track, or monitor him or her; and

(b) It is not a defense to the crime of stalking under subsection (1) ~~((+ (ii)))~~ (a) (i) of this section that the stalker did not intend to frighten ((; or) intimidate ((; or) harass)) the person or place the person in substantial emotional distress.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) ~~((Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.))~~ The provisions of this section do not apply to the installation, placement, or use of an

electronic tracking device by any of the following:

(a) A law enforcement officer, judicial officer, probation or parole officer, or other public employee when any such person is engaged in the lawful performance of official duties and in accordance with state or federal law;

(b) The installation, placement, or use of an electronic tracking device authorized by an order of a state or federal court;

(c) A legal guardian for a disabled adult or a legally authorized individual or organization designated to provide protective services to a disabled adult when the electronic tracking device is installed, placed, or used to track the location of the disabled adult for which the person is a legal guardian or the individual or organization is designated to provide protective services;

(d) A parent or legal guardian of a minor when the electronic tracking device is installed, placed, or used to track the location of that minor unless the parent or legal guardian is subject to a court order that orders the parent or legal guardian not to assault, threaten, harass, follow, or contact that minor;

(e) An employer, school, or other organization, who owns the device on which the tracking device is installed and provides the device to a person for use in connection with the person's involvement with the employer, school, or other organization and the use of the device is limited to recovering lost or stolen items; or

(f) The owner of fleet vehicles, when tracking such vehicles. For the purposes of this section, "fleet vehicle" means any of the following:

(i) One or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes;

(ii) Motor vehicles held for lease or rental to the general public; or

(iii) Motor vehicles held for sale, or used as demonstrators, test vehicles, or loaner vehicles, by motor vehicle dealers.

(5) (a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another person is guilty of a class B felony if any of the following applies:

(i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060 (~~, of the same victim or members of the victim's family or household or any person specifically named in a protective order~~);

(ii) ~~((the))~~The stalking violates any protective order protecting the ~~((person being stalked))~~ victim;

(iii) ~~((the))~~The stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person;

(iv) ~~((the))~~The stalker was armed with a deadly weapon, as defined in RCW 9.94A.825, while stalking the ~~((person))~~ victim;

(v) (A) ~~((the stalker's))~~The victim is or was a law enforcement officer; judge; juror;

attorney; victim advocate; legislator; community corrections' officer; an employee, contract staff person, or volunteer of a correctional agency; court employee, court clerk, or courthouse facilitator; or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services; and

(B) ~~((the))~~The stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or

(vi) ~~((the stalker's))~~The victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Actual notice" includes, in addition to any other form of actual notice, circumstances in which the other person has a protective order in effect protecting him or her from the person.

(b) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the other person.

(c) "Correctional agency" means a person working for the department of natural resources in a correctional setting or any state, county, or municipally operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the department of corrections, the indeterminate sentence review board, and the department of social and health services.

~~((b))~~(d) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

~~((e))~~(e) "Electronic tracking device" means an electronic device that permits a person to remotely determine or monitor the position and movement of another person, vehicle, device, or other personal possession. As used in this subsection (6) (e), "electronic device" includes computer code or other digital instructions that once installed on a digital device, allows a person to remotely track the position of that device.

(f) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the ~~((alleged))~~ stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the ~~((alleged))~~ stalker follows the person. It is not necessary to establish that the ~~((alleged))~~

stalker follows the person while in transit from one location to another.

~~((d))~~ (g) "Harasses" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, ~~((harasses))~~ torments, or is detrimental to such person, and which serves no legitimate or lawful purpose. ~~((The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or when the course of conduct would cause a reasonable parent to fear for the well-being of his or her child.~~

~~((e))~~ (h) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

~~((f))~~ (i) "Repeatedly" means on two or more separate occasions.

(j) "Substantial emotional distress" means a mental, emotional, or physical reaction such as anxiety, apprehension, or loss of ability to concentrate or other symptoms, whether or not medical or other professional treatment or counseling is sought or required, which degrades the victim's quality of life.

NEW SECTION. Sec. 2. RCW 9A.90.130 (Cyberstalking) and 2022 c 231 s 3 are each repealed."

On page 1, line 1 of the title, after "offenses;" strike the remainder of the title and insert "amending RCW 9A.46.110; and repealing RCW 9A.90.130."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1696 and advanced the bill, as amended by the Senate, to final passage.

Representatives Davis and Mosbrucker spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1696, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1696, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson,

Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

HOUSE BILL NO. 1696, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1758, with the following amendment(s): 1758-S.E AMS SALO S2602.1

On page 2, line 13, after "tribe," strike "or"

On page 2, line 14, after "district" insert ", or a municipal utility"

On page 2, at the beginning of line 30, strike "or a public utility district" and insert "a public utility district, or a municipal utility"

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1758 and advanced the bill, as amended by the Senate, to final passage.

Representatives Mena and Goehner spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1758, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1758, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1758, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

Saturday, April 8, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1766, with the following amendment(s): 1766-S.E AMS WM S2934.1

Strike everything after the enacting clause and insert the following:

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

(1) Washington state has been a national leader in adopting legal protections to prevent and respond to abuse, violence, harassment, stalking, neglect, and other threatening behaviors, through the enactment of different types of civil protection orders, which are intended to provide an efficient means to obtain protection against perpetrators of these harms. Protection orders are essential tools that can increase safety for victims of domestic violence, sexual assault, stalking, abuse of vulnerable adults, and unlawful harassment, by empowering them to obtain immediate protection for themselves without having to rely on the criminal legal system. From 2018 through 2021, more than 83,000 full protection order cases were filed in Washington courts, with domestic violence protection order cases making up nearly 58 percent of that total.

(2) Washingtonians who receive protection orders, however, are often confronted by a difficult choice—always carry a paper copy of the order with them, an inconvenient option that could result in the document being damaged or lost, or risk not having access to proper documentation should assistance from law enforcement or emergency services become necessary.

(3) Numerous other states including Oregon, Idaho, and Montana have successfully implemented a solution by establishing hope card programs. Hope cards are durable, laminated cards, similar in construction to a driver's license, that contain the vital information about a protection order that first responders need to quickly verify its existence.

(4) Establishing a hope card program in Washington will not only relieve protection order recipients of an unnecessary source of frustration and stress, but also increase the effectiveness of these crucial sources of safety and security for thousands of Washingtonians.

**NEW SECTION. Sec. 2.** A new section is added to chapter 7.105 RCW to read as follows:

(1) The administrative office of the courts shall develop a program for the issuance of protection order hope cards in scannable electronic format by superior and

district courts. The administrative office of the courts shall develop the program in collaboration with the Washington state superior court judges' association, the Washington state district and municipal court judges' association, the Washington state association of county clerks, association of Washington superior court administrators, district and municipal court management association, and the Washington association of sheriffs and police chiefs, and shall make reasonably feasible efforts to solicit and incorporate input from appropriate stakeholder groups, including representatives from victim advocacy groups, law enforcement agencies, and the department of licensing.

(2) (a) A hope card must be in a scannable electronic format including, but not limited to, a barcode, data matrix code, or a quick response code, and must contain, without limitations, the following:

(i) The restrained person's name, date of birth, sex, race, eye color, hair color, height, weight, and other distinguishing features;

(ii) The protected person's name and date of birth and the names and dates of birth of any minor children protected under the order; and

(iii) Information about the protection order including, but not limited to, the issuing court, the case number, the date of issuance and date of expiration of the order, and the relevant details of the order, including any locations from which the person is restrained.

(b) If feasible, the information stored in a scannable electronic format and accessible through a barcode, data matrix code, or a quick response code must include a digital record of the protection order as entered and provide access to the entire case history, including the petition for protection order, statement, declaration, temporary order, hearing notice, and proof of service.

(3) Commencing on January 1, 2025, a person who has been issued a valid full protection order may request a hope card from the clerk of the issuing court at the time the order is entered or at any time prior to the expiration of the order.

(4) A person requesting a hope card may not be charged a fee for the issuance of an original and one duplicate hope card.

(5) A hope card has the same effect as the underlying protection order.

(6) For the purposes of this section, "full protection order" means a domestic violence protection order, a sexual assault protection order, a stalking protection order, a vulnerable adult protection order, or an antiharassment protection order, as defined in this chapter.

**NEW SECTION. Sec. 3.** This act takes effect January 1, 2025."

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "adding a new section to chapter 7.105 RCW; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1766 and advanced the bill, as amended by the Senate, to final passage.

Representatives Griffey and Hansen spoke in favor of the passage of the bill.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1766, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1766, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1766, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Wednesday, April 5, 2023

Mme. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1797, with the following amendment(s): 1797.E AMS BFGT S2287.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 18.140 RCW to read as follows:

(1) A state-licensed appraiser or state-certified appraiser may perform evaluations for financial institutions. An appraiser performing evaluations is not engaged in real estate appraisal activity, requiring compliance with the uniform standards of professional appraisal practice, when the appraiser includes a disclaimer as described in subsection (3) of this section.

(2) A state-licensed appraiser or state-certified appraiser engaged to perform an evaluation is still engaged in real estate appraisal activity and remains under the

regulatory authority of the state of Washington.

(3) When completing an evaluation, the appraiser must include a disclaimer that: (a) Is located immediately above the appraiser's signature; and (b) includes the following language in at least 10-point boldface type: "I am a state-licensed appraiser or a state-certified appraiser. This evaluation was not prepared in my capacity as a real estate appraiser and might not comply with the uniform standards of professional appraisal practice."

(4) As used in this section, "evaluation" means an estimate of the market value of real property or real estate provided to a financial institution in conformance with the interagency appraisal and evaluation guidelines adopted jointly by the federal financial institution's regulatory agencies for use in real estate-related financial transactions that do not require an appraisal. Nothing in this subsection may be construed to excuse a financial institution or affiliate from complying with the provisions of Title XI of the federal financial institutions reform, recovery, and enforcement act of 1989 (12 U.S.C. Sec. 3310 et seq.).

**Sec. 2.** RCW 18.140.030 and 2005 c 339 s 4 are each amended to read as follows:

The director shall have the following powers and duties:

(1) To adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter and chapter 18.235 RCW, with the advice and approval of the commission;

(2) To receive and approve or deny applications for certification or licensure as a state-certified or state-licensed real estate appraiser and for registration as a state-registered appraiser trainee under this chapter; to establish appropriate administrative procedures for the processing of such applications; to issue certificates, licenses, or registrations to qualified applicants pursuant to the provisions of this chapter; and to maintain a roster of the names and addresses of individuals who are currently certified, licensed, or registered under this chapter;

(3) To provide administrative assistance to the members of and to keep records for the real estate appraiser commission;

(4) To solicit bids and enter into contracts with educational testing services or organizations for the preparation of questions and answers for certification or licensure examinations;

(5) To administer or contract for administration of certification or licensure examinations at locations and times as may be required to carry out the responsibilities under this chapter;

(6) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(7) To consider recommendations by the real estate appraiser commission relating to the experience, education, and examination requirements for each classification of state-certified appraiser and for licensure;

(8) To consider recommendations by the real estate appraiser commission relating to the educational requirements for the state-registered appraiser trainee classification;

(9) To consider recommendations by the real estate appraiser commission relating to the maximum number of state-registered appraiser trainees that each supervisory appraiser will be permitted to supervise;

(10) To consider recommendations by the real estate appraiser commission relating to continuing education requirements as a prerequisite to renewal of certification or licensure;

(11) To consider recommendations by the real estate appraiser commission relating to standards of professional appraisal conduct or practice in the enforcement of this chapter;

(12) To employ such professional, clerical, and technical assistance as may be necessary to properly administer the work of the director;

(13) To establish forms necessary to administer this chapter;

(14) To establish an expert review appraiser roster comprised of state-certified or licensed real estate appraisers whose purpose is to assist the director by applying their individual expertise by reviewing real estate appraisals for compliance with this chapter. Qualifications to act as an expert review appraiser shall be established by the director with the advice of the commission. An application to serve as an expert review appraiser shall be submitted to the real estate appraiser program, and the roster of accepted expert review appraisers shall be maintained by the department. An expert review appraiser may be added to or deleted from that roster by the director. The expert review appraiser shall be reimbursed for expenses in the same manner as the department reimburses the commission; and

(15) To do all other things necessary to carry out the provisions of this chapter and minimally meet the requirements of federal guidelines regarding state certification or licensure of appraisers and registration of state-registered appraiser trainees that the director determines are appropriate for state-certified and state-licensed appraisers and state-registered appraiser trainees in this state, except as provided for in section 1 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.140 RCW to read as follows:

The department shall adopt administrative rule amendments to chapter 308-125 WAC that require:

(1) Appraisers and appraiser trainees to adhere to the nondiscrimination and fair housing provisions as provided in the ethics rule in accordance with the appraisal standards board and the uniform standards of professional appraisal practice;

(2) Appraiser and appraiser trainees to adhere to all education criteria in accordance with the appraiser qualifications board as provided in the real property appraiser qualifications criteria.

**NEW SECTION. Sec. 4.** (1) This act takes effect upon the adoption of the administrative rules required in section 3 of this act.

(2) The department must provide notice of the effective date of this section to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department."

On page 1, line 1 of the title, after "to" strike the remainder of the title and insert "real estate appraisers; amending RCW 18.140.030; adding new sections to chapter 18.140 RCW; and providing a contingent effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1797 and advanced the bill, as amended by the Senate, to final passage.

Representatives Cheney and Walen spoke in favor of the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1797, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1797, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED HOUSE BILL NO. 1797, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

Friday, April 7, 2023

Mme. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181, with the following amendment(s): 1181-S2.E AMS ENGR S2967.E

Strike everything after the enacting clause and insert the following:



**"Sec. 1.** RCW 36.70A.020 and 2021 c 254 s 1 are each amended to read as follows:

The following goals are adopted to guide the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or choose to plan under RCW 36.70A.040 and, where specified, also guide the development of regional policies, plans, and strategies adopted under RCW 36.70A.210 and chapter 47.80 RCW. The following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans ~~((and))~~, development regulations, and, where specified, regional plans, policies, and strategies:

(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

(2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

(3) Transportation. Encourage efficient multimodal transportation systems that will reduce greenhouse gas emissions and per capita vehicle miles traveled, and are based on regional priorities and coordinated with county and city comprehensive plans.

(4) Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

(5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

(6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

(7) Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

(8) Natural resource industries. Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.

(9) Open space and recreation. Retain open space and green space, enhance recreational opportunities, ~~((conserve))~~enhance fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.

(10) Environment. Protect and enhance the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

(11) Citizen participation and coordination. Encourage the involvement of citizens in the planning process, including the participation of vulnerable populations and overburdened communities, and ensure coordination between communities and jurisdictions to reconcile conflicts.

(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

(13) Historic preservation. Identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance.

(14) Climate change and resiliency. Ensure that comprehensive plans, development regulations, and regional policies, plans, and strategies under RCW 36.70A.210 and chapter 47.80 RCW adapt to and mitigate the effects of a changing climate; support reductions in greenhouse gas emissions and per capita vehicle miles traveled; prepare for climate impact scenarios; foster resiliency to climate impacts and natural hazards; protect and enhance environmental, economic, and human health and safety; and advance environmental justice.

(15) Shorelines of the state. For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 shall be considered an element of the county's or city's comprehensive plan.

**Sec. 2.** RCW 36.70A.480 and 2010 c 107 s 2 are each amended to read as follows:

(1) For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the ~~((fourteen))~~15 goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

(2) The shoreline master program shall be adopted pursuant to the procedures of chapter 90.58 RCW rather than the goals, policies, and procedures set forth in this chapter for the adoption of a comprehensive plan or development regulations.

(3)(a) The policies, goals, and provisions of chapter 90.58 RCW and applicable guidelines shall be the sole basis for determining compliance of a shoreline master program with this chapter except as the shoreline master program is required to comply with the internal

consistency provisions of RCW 36.70A.070, 36.70A.040(4), 35.63.125, and 35A.63.105.

(b) Except as otherwise provided in (c) of this subsection, development regulations adopted under this chapter to protect critical areas within shorelines of the state apply within shorelines of the state until the department of ecology approves one of the following: A comprehensive master program update, as defined in RCW 90.58.030; a segment of a master program relating to critical areas, as provided in RCW 90.58.090; or a new or amended master program approved by the department of ecology on or after March 1, 2002, as provided in RCW 90.58.080. The adoption or update of development regulations to protect critical areas under this chapter prior to department of ecology approval of a master program update as provided in this subsection is not a comprehensive or segment update to the master program.

(c)(i) Until the department of ecology approves a master program or segment of a master program as provided in (b) of this subsection, a use or structure legally located within shorelines of the state that was established or vested on or before the effective date of the local government's development regulations to protect critical areas may continue as a conforming use and may be redeveloped or modified if: (A) The redevelopment or modification is consistent with the local government's master program; and (B) the local government determines that the proposed redevelopment or modification will result in no net loss of shoreline ecological functions. The local government may waive this requirement if the redevelopment or modification is consistent with the master program and the local government's development regulations to protect critical areas.

(ii) For purposes of this subsection (3)(c), an agricultural activity that does not expand the area being used for the agricultural activity is not a redevelopment or modification. "Agricultural activity," as used in this subsection (3)(c), has the same meaning as defined in RCW 90.58.065.

(d) Upon department of ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW and are not subject to the procedural and substantive requirements of this chapter, except as provided in subsection (6) of this section. Nothing in chapter 321, Laws of 2003 or chapter 107, Laws of 2010 is intended to affect whether or to what extent agricultural activities, as defined in RCW 90.58.065, are subject to chapter 36.70A RCW.

(e) The provisions of RCW 36.70A.172 shall not apply to the adoption or subsequent amendment of a local government's shoreline master program and shall not be used to determine compliance of a local government's shoreline master program with chapter 90.58 RCW and applicable guidelines. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the

state, as required by chapter 90.58 RCW and applicable guidelines.

(4) Shoreline master programs shall provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources as defined by department of ecology guidelines adopted pursuant to RCW 90.58.060.

(5) Shorelines of the state shall not be considered critical areas under this chapter except to the extent that specific areas located within shorelines of the state qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(~~((+5))~~)(6) and have been designated as such by a local government pursuant to RCW 36.70A.060(2).

(6) If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, as authorized by RCW 90.58.030(2)(~~((+5))~~)(d), then the local jurisdiction shall continue to regulate those critical areas and their required buffers pursuant to RCW 36.70A.060(2).

**Sec. 3.** RCW 36.70A.070 and 2022 c 246 s 2 and 2022 c 220 s 1 are each reenacted and amended to read as follows:

The comprehensive plan of a county or city that is required or chooses to plan under RCW 36.70A.040 shall consist of a map or maps, and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The plan shall be an internally consistent document and all elements shall be consistent with the future land use map. A comprehensive plan shall be adopted and amended with public participation as provided in RCW 36.70A.140. Each comprehensive plan shall include a plan, scheme, or design for each of the following:

(1) A land use element designating the proposed general distribution and general location and extent of the uses of land, where appropriate, for agriculture, timber production, housing, commerce, industry, recreation, open spaces and green spaces, urban and community forests within the urban growth area, general aviation airports, public utilities, public facilities, and other land uses. The land use element shall include population densities, building intensities, and estimates of future population growth. The land use element shall provide for protection of the quality and quantity of groundwater used for public water supplies. The land use element must give special consideration to achieving environmental justice in its goals and policies, including efforts to avoid creating or worsening environmental health disparities. Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity and reduce per capita vehicle miles traveled within the jurisdiction, but without increasing greenhouse gas emissions elsewhere in the state. Where applicable, the land use element shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide

guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. The land use element must reduce and mitigate the risk to lives and property posed by wildfires by using land use planning tools, which may include, but are not limited to, adoption of portions or all of the wildland urban interface code developed by the international code council or developing building and maintenance standards consistent with the firewise USA program or similar program designed to reduce wildfire risk, reducing wildfire risks to residential development in high risk areas and the wildland urban interface area, separating human development from wildfire prone landscapes, and protecting existing residential development and infrastructure through community wildfire preparedness and fire adaptation measures.

(2) A housing element ensuring the vitality and character of established residential neighborhoods that:

(a) Includes an inventory and analysis of existing and projected housing needs that identifies the number of housing units necessary to manage projected growth, as provided by the department of commerce, including:

(i) Units for moderate, low, very low, and extremely low-income households; and

(ii) Emergency housing, emergency shelters, and permanent supportive housing;

(b) Includes a statement of goals, policies, objectives, and mandatory provisions for the preservation, improvement, and development of housing, including single-family residences, and within an urban growth area boundary, moderate density housing options including, but not limited to, duplexes, triplexes, and townhomes;

(c) Identifies sufficient capacity of land for housing including, but not limited to, government-assisted housing, housing for moderate, low, very low, and extremely low-income households, manufactured housing, multifamily housing, group homes, foster care facilities, emergency housing, emergency shelters, permanent supportive housing, and within an urban growth area boundary, consideration of duplexes, triplexes, and townhomes;

(d) Makes adequate provisions for existing and projected needs of all economic segments of the community, including:

(i) Incorporating consideration for low, very low, extremely low, and moderate-income households;

(ii) Documenting programs and actions needed to achieve housing availability including gaps in local funding, barriers such as development regulations, and other limitations;

(iii) Consideration of housing locations in relation to employment location; and

(iv) Consideration of the role of accessory dwelling units in meeting housing needs;

(e) Identifies local policies and regulations that result in racially disparate impacts, displacement, and exclusion in housing, including:

(i) Zoning that may have a discriminatory effect;

(ii) Disinvestment; and

(iii) Infrastructure availability;

(f) Identifies and implements policies and regulations to address and begin to undo racially disparate impacts, displacement, and exclusion in housing caused by local policies, plans, and actions;

(g) Identifies areas that may be at higher risk of displacement from market forces that occur with changes to zoning development regulations and capital investments; and

(h) Establishes antidisplacement policies, with consideration given to the preservation of historical and cultural communities as well as investments in low, very low, extremely low, and moderate-income housing; equitable development initiatives; inclusionary zoning; community planning requirements; tenant protections; land disposition policies; and consideration of land that may be used for affordable housing.

In counties and cities subject to the review and evaluation requirements of RCW 36.70A.215, any revision to the housing element shall include consideration of prior review and evaluation reports and any reasonable measures identified. The housing element should link jurisdictional goals with overall county goals to ensure that the housing element goals are met.

The adoption of ordinances, development regulations and amendments to such regulations, and other nonproject actions taken by a city that is required or chooses to plan under RCW 36.70A.040 that increase housing capacity, increase housing affordability, and mitigate displacement as required under this subsection (2) and that apply outside of critical areas are not subject to administrative or judicial appeal under chapter 43.21C RCW unless the adoption of such ordinances, development regulations and amendments to such regulations, or other nonproject actions has a probable significant adverse impact on fish habitat.

(3) A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, including green infrastructure, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; (d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

The county or city shall identify all public entities that own capital facilities and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include

within its capital facilities element the information required by this subsection. If, after a good faith effort, the county or city is unable to gather the information required by this subsection from the other public entities, the failure to include such information in its capital facilities element cannot be grounds for a finding of noncompliance or invalidity under this act. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans and emailing and calling the staff of the public entity.

(4)(a) A utilities element consisting of the general location, proposed location, and capacity of all existing and proposed utilities((~~r~~) including, but not limited to, electrical ((~~lines~~)), ((~~telecommunication~~ lines))telecommunications, and natural gas ((~~lines~~))systems.

(b) The county or city shall identify all public entities that own utility systems and endeavor in good faith to work with other public entities, such as special purpose districts, to gather and include within its utilities element the information required in (a) of this subsection. However, if, after a good faith effort, the county or city is unable to gather the information required in (a) of this subsection from the other public entities, the failure to include such information in the utilities element shall not be grounds for a finding of noncompliance or invalidity under this act. A good faith effort must, at a minimum, include consulting the public entity's capital facility or system plans, and emailing and calling the staff of the public entity.

(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:

(a) Growth management act goals and local circumstances. Because circumstances vary from county to county, in establishing patterns of rural densities and uses, a county may consider local circumstances, but shall develop a written record explaining how the rural element harmonizes the planning goals in RCW 36.70A.020 and meets the requirements of this chapter.

(b) Rural development. The rural element shall permit rural development, forestry, and agriculture in rural areas. The rural element shall provide for a variety of rural densities, uses, essential public facilities, and rural governmental services needed to serve the permitted densities and uses. To achieve a variety of rural densities and uses, counties may provide for clustering, density transfer, design guidelines, conservation easements, and other innovative techniques that will accommodate appropriate rural economic advancement, densities, and uses that are not characterized by urban growth and that are consistent with rural character.

(c) Measures governing rural development. The rural element shall include measures that apply to rural development and protect the rural character of the area, as established by the county, by:

(i) Containing or otherwise controlling rural development;

(ii) Assuring visual compatibility of rural development with the surrounding rural area;

(iii) Reducing the inappropriate conversion of undeveloped land into sprawling, low-density development in the rural area;

(iv) Protecting critical areas, as provided in RCW 36.70A.060, and surface water and groundwater resources; and

(v) Protecting against conflicts with the use of agricultural, forest, and mineral resource lands designated under RCW 36.70A.170.

(d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5) (d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:

(i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(A) A commercial, industrial, residential, shoreline, or mixed-use area are subject to the requirements of (d)(iv) of this subsection, but are not subject to the requirements of (c)(ii) and (iii) of this subsection.

(B) Any development or redevelopment other than an industrial area or an industrial use within a mixed-use area or an industrial area under this subsection (5)(d)(i) must be principally designed to serve the existing and projected rural population.

(C) Any development or redevelopment in terms of building size, scale, use, or intensity may be permitted subject to confirmation from all existing providers of public facilities and public services of sufficient capacity of existing public facilities and public services to serve any new or additional demand from the new development or redevelopment. Development and redevelopment may include changes in use from vacant land or a previously existing use so long as the new use conforms to the requirements of this subsection (5) and is consistent with the local character. Any commercial development or redevelopment within a mixed-use area must be principally designed to serve the existing and projected rural population and must meet the following requirements:

(I) Any included retail or food service space must not exceed the footprint of previously occupied space or 5,000 square feet, whichever is greater, for the same or similar use; and

(II) Any included retail or food service space must not exceed 2,500 square feet for a new use;

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that

rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(23). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(23). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

(iv) A county shall adopt measures to minimize and contain the existing areas of more intensive rural development, as appropriate, authorized under this subsection. Lands included in such existing areas shall not extend beyond the logical outer boundary of the existing area, thereby allowing a new pattern of low-density sprawl. Existing areas are those that are clearly identifiable and contained and where there is a logical boundary delineated predominately by the built environment, but that may also include undeveloped lands if limited as provided in this subsection. The county shall establish the logical outer boundary of an area of more intensive rural development. In establishing the logical outer boundary, the county shall address (A) the need to preserve the character of existing natural neighborhoods and communities, (B) physical boundaries, such as bodies of water, streets and highways, and land forms and contours, (C) the prevention of abnormally irregular boundaries, and (D) the ability to provide public facilities and public services in a manner that does not permit low-density sprawl;

(v) For purposes of this subsection (5) (d), an existing area or existing use is one that was in existence:

(A) On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter;

(B) On the date the county adopted a resolution under RCW 36.70A.040(2), in a county that is planning under all of the provisions of this chapter under RCW 36.70A.040(2); or

(C) On the date the office of financial management certifies the county's population as provided in RCW 36.70A.040(5), in a county that is planning under all of the provisions of this chapter pursuant to RCW 36.70A.040(5).

(e) Exception. This subsection shall not be interpreted to permit in the rural area a major industrial development or a master planned resort unless otherwise specifically permitted under RCW 36.70A.360 and 36.70A.365.

(6) A transportation element that implements, and is consistent with, the land use element.

(a) The transportation element shall include the following subelements:

(i) Land use assumptions used in estimating travel;

(ii) Estimated ((traffic))multimodal level of service impacts to state-owned transportation facilities resulting from land use assumptions to assist ((the department of transportation)) in monitoring the performance of state facilities, to plan improvements for the facilities, and to assess the impact of land-use decisions on state-owned transportation facilities;

(iii) Facilities and services needs, including:

(A) An inventory of air, water, and ground transportation facilities and services, including transit alignments, active transportation facilities, and general aviation airport facilities, to define existing capital facilities and travel levels ((as a basis for))to inform future planning. This inventory must include state-owned transportation facilities within the city or county's jurisdictional boundaries;

(B) ((Level))Multimodal level of service standards for all locally owned arterials ((and)), locally and regionally operated transit routes that serve urban growth areas, state-owned or operated transit routes that serve urban areas if the department of transportation has prepared such standards, and active transportation facilities to serve as a gauge to judge performance of the system and success in helping to achieve the goals of this chapter consistent with environmental justice. These standards should be regionally coordinated;

(C) For state-owned transportation facilities, multimodal level of service standards for highways, as prescribed in chapters 47.06 and 47.80 RCW, to gauge the performance of the system. The purposes of reflecting multimodal level of service standards for state highways in the local comprehensive plan are to monitor the performance of the system, to evaluate improvement strategies, and to facilitate coordination between the county's or city's six-year street, road, active transportation, or transit program and the office of financial management's ten-year investment program. The concurrency requirements of (b) of this subsection do not apply to transportation facilities and services of statewide significance except for counties consisting of islands whose only connection to the mainland are state highways or ferry routes. In these island counties, state highways and ferry route

capacity must be a factor in meeting the concurrency requirements in (b) of this subsection;

(D) Specific actions and requirements for bringing into compliance (~~locally owned~~) transportation facilities or services that are below an established multimodal level of service standard;

(E) Forecasts of (~~traffic~~) multimodal transportation demand and needs within cities and urban growth areas, and forecasts of multimodal transportation demand and needs outside of cities and urban growth areas, for at least ten years based on the adopted land use plan to (~~provide information on the location, timing, and capacity needs of future growth~~) inform the development of a transportation element that balances transportation system safety and convenience to accommodate all users of the transportation system to safely, reliably, and efficiently provide access and mobility to people and goods. Priority must be given to inclusion of transportation facilities and services providing the greatest multimodal safety benefit to each category of roadway users for the context and speed of the facility;

(F) Identification of state and local system needs to equitably meet current and future demands. Identified needs on state-owned transportation facilities must be consistent with the statewide multimodal transportation plan required under chapter 47.06 RCW. Local system needs should reflect the regional transportation system and local goals, and strive to equitably implement the multimodal network;

(G) A transition plan for transportation as required in Title II of the Americans with disabilities act of 1990 (ADA). As a necessary step to a program access plan to provide accessibility under the ADA, state and local government, public entities, and public agencies are required to perform self-evaluations of their current facilities, relative to accessibility requirements of the ADA. The agencies are then required to develop a program access plan, which can be called a transition plan, to address any deficiencies. The plan is intended to achieve the following:

(I) Identify physical obstacles that limit the accessibility of facilities to individuals with disabilities;

(II) Describe the methods to be used to make the facilities accessible;

(III) Provide a schedule for making the access modifications; and

(IV) Identify the public officials responsible for implementation of the transition plan;

(iv) Finance, including:

(A) An analysis of funding capability to judge needs against probable funding resources;

(B) A multiyear financing plan based on the needs identified in the comprehensive plan, the appropriate parts of which shall serve as the basis for the six-year street, road, or transit program required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems. The multiyear financing plan should be coordinated with the ten-year investment program developed by

the office of financial management as required by RCW 47.05.030;

(C) If probable funding falls short of meeting the identified needs of the transportation system, including state transportation facilities, a discussion of how additional funding will be raised, or how land use assumptions will be reassessed to ensure that level of service standards will be met;

(v) Intergovernmental coordination efforts, including an assessment of the impacts of the transportation plan and land use assumptions on the transportation systems of adjacent jurisdictions;

(vi) Demand-management strategies;

(vii) (~~Pedestrian and bicycle~~) Active transportation component to include collaborative efforts to identify and designate planned improvements for (~~pedestrian and bicycle~~) active transportation facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

(b) After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development. These strategies may include (~~increased~~) active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, and other transportation systems management strategies. For the purposes of this subsection (6), "concurrent with the development" means that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years. If the collection of impact fees is delayed under RCW 82.02.050(3), the six-year period required by this subsection (6)(b) must begin after full payment of all impact fees is due to the county or city. A development proposal may not be denied for causing the level of service on a locally owned or locally or regionally operated transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan where such impacts could be adequately mitigated through active transportation facility improvements, increased or enhanced public transportation service, ride-sharing programs, demand management, or other transportation systems management strategies funded by the development.

(c) The transportation element described in this subsection (6), the six-year plans required by RCW 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795 for public transportation systems, and the ten-year investment program required by RCW 47.05.030 for the state, must be consistent.

(7) An economic development element establishing local goals, policies, objectives, and provisions for economic growth and vitality and a high quality of life. A city that has chosen to be a residential community is exempt from the economic development element requirement of this subsection.

(8) A park and recreation element that implements, and is consistent with, the capital facilities plan element as it relates to park and recreation facilities. The element shall include: (a) Estimates of park and recreation demand for at least a ten-year period; (b) an evaluation of facilities and service needs; (c) an evaluation of tree canopy coverage within the urban growth area; and ((+e)) (d) an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreational demand.

(9)(a) A climate change and resiliency element that is designed to result in reductions in overall greenhouse gas emissions and that must enhance resiliency to and avoid the adverse impacts of climate change, which must include efforts to reduce localized greenhouse gas emissions and avoid creating or worsening localized climate impacts to vulnerable populations and overburdened communities.

(b) The climate change and resiliency element shall include the following subelements:

(i) A greenhouse gas emissions reduction subelement;

(ii) A resiliency subelement.

(c) The greenhouse gas emissions reduction subelement of the climate change and resiliency element is mandatory for the jurisdictions specified in section 4(1) of this act and is encouraged for all other jurisdictions, including those planning under RCW 36.70A.040 and those planning under chapter 36.70 RCW. The resiliency subelement of the climate change and resiliency element is mandatory for all jurisdictions planning under RCW 36.70A.040 and is encouraged for those jurisdictions planning under chapter 36.70 RCW.

(d)(i) The greenhouse gas emissions reduction subelement of the comprehensive plan, and its related development regulations, must identify the actions the jurisdiction will take during the planning cycle consistent with the guidelines published by the department pursuant to section 5 of this act that will:

(A) Result in reductions in overall greenhouse gas emissions generated by transportation and land use within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state;

(B) Result in reductions in per capita vehicle miles traveled within the jurisdiction but without increasing greenhouse gas emissions elsewhere in the state; and

(C) Prioritize reductions that benefit overburdened communities in order to maximize the cobenefits of reduced air pollution and environmental justice.

(ii) Actions not specifically identified in the guidelines developed by the department pursuant to section 5 of this act

may be considered consistent with these guidelines only if:

(A) They are projected to achieve greenhouse gas emissions reductions or per capita vehicle miles traveled reductions equivalent to what would be required of the jurisdiction under the guidelines adopted by the department; and

(B) They are supported by scientifically credible projections and scenarios that indicate their adoption is likely to result in reductions of greenhouse gas emissions or per capita vehicle miles traveled.

(iii) A jurisdiction may not restrict population growth or limit population allocation in order to achieve the requirements set forth in this subsection (9)(d).

(e)(i) The resiliency subelement must equitably enhance resiliency to, and avoid or substantially reduce the adverse impacts of, climate change in human communities and ecological systems through goals, policies, and programs consistent with the best available science and scientifically credible climate projections and impact scenarios that moderate or avoid harm, enhance the resiliency of natural and human systems, and enhance beneficial opportunities. The resiliency subelement must prioritize actions that benefit overburdened communities that will disproportionately suffer from compounding environmental impacts and will be most impacted by natural hazards due to climate change. Specific goals, policies, and programs of the resiliency subelement must include, but are not limited to, those designed to:

(A) Identify, protect, and enhance natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(B) Identify, protect, and enhance community resiliency to climate change impacts, including social, economic, and built environment factors, that support adaptation to climate impacts consistent with environmental justice; and

(C) Address natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfire, and other effects of changes to temperature and precipitation patterns.

(ii) A natural hazard mitigation plan or similar plan that is guided by RCW 36.70A.020(14), that prioritizes actions that benefit overburdened communities, and that complies with the applicable requirements of this chapter, including the requirements set forth in this subsection (9)(e), may be adopted by reference to satisfy these requirements, except that to the extent any of the substantive requirements of this subsection (9)(e) are not addressed, or are inadequately addressed, in the referenced natural hazard mitigation plan, a county or city must supplement the natural hazard mitigation plan accordingly so that the adopted resiliency subelement complies fully with the substantive requirements of this subsection (9)(e).

(A) If a county or city intends to adopt by reference a federal emergency management agency natural hazard mitigation plan in order to meet all or part of the substantive requirements set forth in this subsection (9)(e), and the most recently adopted federal emergency management agency natural hazard mitigation plan does not comply with the requirements of this subsection (9)(e), the department may grant the county or city an extension of time in which to submit a natural hazard mitigation plan.

(B) Eligibility for an extension under this subsection prior to July 1, 2027, is limited to a city or county required to review and, if needed, revise its comprehensive plan on or before June 30, 2025, as provided in RCW 36.70A.130, or for a city or county with an existing, unexpired federal emergency management agency natural hazard mitigation plan scheduled to expire before December 31, 2024.

(C) Extension requests after July 1, 2027, may be granted if requirements for the resiliency subelement are amended or added by the legislature or if the department finds other circumstances that may result in a potential finding of noncompliance with a jurisdiction's existing and approved federal emergency management agency natural hazard mitigation plan.

(D) A city or county that wishes to request an extension of time must submit a request in writing to the department no later than the date on which the city or county is required to review and, if needed, revise its comprehensive plan as provided in RCW 36.70A.130.

(E) Upon the submission of such a request to the department, the city or county may have an additional 48 months from the date provided in RCW 36.70A.130 in which to either adopt by reference an updated federal emergency management agency natural hazard mitigation plan or adopt its own natural hazard mitigation plan, and to then submit that plan to the department.

(F) The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to (d) of this subsection in order to implement measures specified by the department pursuant to section 5 of this act are not subject to administrative or judicial appeal under chapter 43.21C RCW.

(10) It is the intent that new or amended elements required after January 1, 2002, be adopted concurrent with the scheduled update provided in RCW 36.70A.130. Requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The requirements of the greenhouse gas emissions reduction subelement of the climate change and resiliency element set

forth in RCW 36.70A.070 apply only to those counties that are required or that choose to plan under RCW 36.70A.040 and that also meet either of the criteria set forth in (a), (b), or (c) of this subsection on or after April 1, 2021, and the cities with populations greater than 6,000 as of April 1, 2021, within those counties:

(a) A county with a population density of at least 100 people per square mile and a population of at least 200,000;

(b) A county bordering on the Columbia and Snake rivers with a population density of at least 75 people per square mile and an annual growth rate of at least 1.65 percent; or

(c) A county located to the west of the crest of the Cascade mountains with a population of at least 130,000.

(2) The requirements of the amendments to the transportation element of RCW 36.70A.070 set forth in this act apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) of this section; and (b) cities with populations of 6,000 or greater as of April 1, 2021, that are located in a county that is required or that chooses to plan under RCW 36.70A.040.

(3) The requirements of the amendments to the land use element of RCW 36.70A.070 set forth in this act apply only to: (a) Counties and cities that meet the population criteria set forth in subsection (1) or (2) of this section; and (b) counties that have a population of 20,000 or greater as of April 1, 2021, and that are required or that choose to plan under RCW 36.70A.040.

(4) Once a county meets either of the sets of criteria set forth in subsection (1) of this section, the requirement to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 remains in effect, even if the county no longer meets one of these sets of criteria.

(5) If the population of a county that previously had not been required to conform with the greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 changes sufficiently to meet either of the sets of criteria set forth in subsection (1) of this section, the county, and the cities with populations greater than 6,000 as of April 1, 2021, within that county, shall adopt a greenhouse gas emissions reduction subelement of the climate change and resiliency element set forth in RCW 36.70A.070 at the next scheduled update of the comprehensive plan as set forth in RCW 36.70A.130.

(6) The population criteria used in this section must be based on population data as determined by the office of financial management.

**NEW SECTION. Sec. 5.** A new section is added to chapter 70A.45 RCW to read as follows:

(1) The department of commerce, in consultation with the department of ecology, the department of health, and the department of transportation, shall publish guidelines that specify a set of measures counties and



cities may implement via updates to their comprehensive plans and development regulations that have a demonstrated ability to increase housing capacity within urban growth areas or reduce greenhouse gas emissions, allowing for consideration of the emissions reductions achieved through the adoption of statewide programs. The guidelines must prioritize measures that benefit overburdened communities, including communities that have experienced disproportionate harm due to air pollution and may draw upon the most recent health disparities data from the department of health to identify high pollution areas and disproportionately burdened communities. These guidelines must be developed consistent with an environmental justice assessment pursuant to RCW 70A.02.060 and the guidelines must include environmental justice assessment processes. The guidelines must be based on:

(a) The most recent greenhouse gas emissions report prepared by the department of ecology and the department of commerce pursuant to RCW 70A.45.020(2);

(b) The most recent city and county population estimates prepared by the office of financial management pursuant to RCW 43.62.035;

(c) The locations of major employment centers and transit corridors, for the purpose of increasing housing supply in these areas; and

(d) Available environmental justice data and data regarding access to public transportation for people with disabilities and for vulnerable populations.

(2)(a) The department of commerce, in consultation with the department of transportation, shall publish guidelines that specify a set of measures counties and cities may have available to them to take through updates to their comprehensive plans and development regulations that have a demonstrated ability to reduce per capita vehicle miles traveled, including measures that are designed to be achievable throughout the state, including in small cities and rural cities.

(b) The guidelines must be based on:

(i) The most recent greenhouse gas emissions report prepared by the department of ecology and the department of commerce pursuant to RCW 70A.45.020(2);

(ii) The most recent city and county population estimates prepared by the office of financial management pursuant to RCW 43.62.035; and

(iii) The most recent summary of per capita vehicle miles traveled as compiled by the department of transportation.

(3) The department of commerce shall first publish the full set of guidelines described in subsections (1) and (2) of this section no later than December 31, 2025. The department of commerce shall update these guidelines at least every five years thereafter based on the most recently available data, and shall provide for a process for local governments and other parties to submit alternative actions for consideration for inclusion into the guidelines at least once per year. The department of commerce shall publish an intermediate set of guidelines no later than

December 31, 2023, in order to be available for use by jurisdictions whose periodic updates are required by RCW 36.70A.130(5) to occur prior to December 31, 2025. Jurisdictions whose periodic updates are required by RCW 36.70A.130(5)(b) may utilize the intermediate set of guidelines published by the department of commerce to meet the requirements of RCW 36.70A.070(9).

(4)(a) In any updates to the guidelines published after 2025, the department of commerce shall include an evaluation of the impact that locally adopted climate change and resiliency elements have had on local greenhouse gas emissions and per capita vehicle miles traveled reduction goals. The evaluation must also address the impact that locally adopted greenhouse gas emissions reduction subelements have had on meeting local housing goals and targets.

(b) The updates must also include an estimate of the impacts that locally adopted climate change and resiliency elements will have on achieving local greenhouse gas emissions and per capita vehicle miles traveled reduction goals. The evaluation must also include an estimate of the impact that locally adopted greenhouse gas emissions reduction subelements will have on meeting local housing goals and targets.

(c) The department may include in the specified guidelines what additional measures cities and counties should take to make additional progress on local reduction goals, including any measures that increase housing capacity within urban growth areas.

(5) The department of commerce may not propose or adopt any guidelines that would include any form of a road usage charge or any fees or surcharges related to vehicle miles traveled.

(6) The department of commerce may not propose or adopt any guidelines that would direct or require local governments to regulate or tax, in any form, transportation service providers, delivery vehicles, or passenger vehicles.

(7) The department of commerce, in the course of implementing this section, shall provide and prioritize options that support increased housing supply and diversity of housing types that assist counties and cities in meeting greenhouse gas emissions reduction, housing supply, and other requirements established under this chapter.

(8) The provisions of this section as applied to the department of transportation are subject to the availability of amounts appropriated for this specific purpose.

(9) For purposes of this section, "overburdened communities" and "vulnerable populations" means the same as provided in RCW 36.70A.030.

**NEW SECTION. Sec. 6.** A new section is added to chapter 36.70A RCW to read as follows:

(1) A county or city required to complete a greenhouse gas emissions reduction subelement may submit the subelement to the department for approval. When submitted to the department for approval, the subelement becomes effective when approved by the department as provided in this section. If a county or city does not seek department

approval of the subelement, the effective date of the subelement is the date on which the comprehensive plan is adopted by the county or city.

(2) Notice of intent to apply for approval. (a) Not less than 120 days prior to applying for approval of a subelement, the county or city must notify the department in writing that it intends to apply for approval. The department shall review proposed subelements prior to final adoption and advise the county or city of the actions necessary to receive approval.

(b) The department may consult with other relevant state agencies in making its determination.

(c) The department shall publish notice in the Washington State Register that a city or county has notified the department of its intent to apply for approval and the department shall post a copy of the notice on the department website.

(3) Procedures for an application for approval. (a) After taking final action to adopt a greenhouse gas emissions reduction subelement, a city or county may apply to the department for approval of the subelement. A city or county must submit its application to the department within 10 days of taking final action.

(b) An application for approval must include, at a minimum, the following:

(i) A cover letter from the legislative authority requesting approval;

(ii) A copy of the adopted ordinance or resolution taking the legislative action or actions required to adopt the greenhouse gas emissions reduction subelement;

(iii) A statement explaining how the adopted subelement complies with the provisions of this chapter; and

(iv) A copy of the record developed by the city or county at any public meetings or public hearings at which action was taken on the greenhouse gas emissions reduction subelement.

(c) For purposes of this subsection, the terms "action" and "meeting" have the same definition as in RCW 42.30.020.

(4) Approval procedures. (a) The department shall strive to achieve final action to approve or deny an application within 180 days of the date of receipt of the application.

(b) The department must issue its decision in the form of a written statement, including findings of fact and conclusions, and noting the date of the issuance of its decision. The department's issued decision must conspicuously and plainly state that it is the department's final decision and that there will be no further modifications to the proposed greenhouse gas emissions reduction subelement.

(c) The department will promptly publish its decision on the application for approval as follows:

(i) Notify the city or county in writing of its determination;

(ii) Publish a notice of action in the Washington State Register;

(iii) Post a notice of its decision on the agency website; and

(iv) Notify other relevant state agencies regarding the approval decision.

(5) The department shall approve a proposed greenhouse gas emissions reduction subelement unless it determines that the proposed greenhouse gas emissions reduction subelement is not consistent with the policy of RCW 36.70A.070 and, after they are adopted, the applicable guidelines.

(6) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW 36.70A.040 may be appealed according to the following provisions:

(a) The department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment by a local government planning under RCW 36.70A.040 may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(b) A decision of the growth management hearings board concerning an appeal of the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendment must be based solely on whether or not the adopted or amended greenhouse gas emissions reduction subelement, any adopted amendments to other elements of the comprehensive plan necessary to carry out the subelement, and any adopted or amended development regulations necessary to implement the subelement, comply with the goal set forth in RCW 36.70A.020(14) as it applies to greenhouse gas emissions reductions, RCW 36.70A.070(9) excluding RCW 36.70A.070(9) (e), the guidelines adopted under section 5 of this act applicable to the greenhouse gas emissions reduction subelement, or chapter 43.21C RCW.

**Sec. 7.** RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801;

(b) That the ~~((twenty))~~20-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under RCW 36.70A.735(1)(a) is not in compliance with the requirements of the program established under RCW 36.70A.710;

(d) That regulations adopted under RCW 36.70A.735(1)(b) are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; ~~((or))~~

(e) That a department certification under RCW 36.70A.735(1)(c) is erroneous; or

(f) That the department's final decision to approve or reject a proposed greenhouse gas emissions reduction subelement or amendments by a local government planning under RCW 36.70A.040 was not in compliance with the joint guidance issued by the department pursuant to section 5 of this act.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within ~~((sixty))~~ 60 days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**Sec. 8.** RCW 36.70A.320 and 1997 c 429 s 20 are each amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, comprehensive plans and development regulations, and amendments thereto, adopted under this chapter are presumed valid upon adoption.

(2) Except as otherwise provided in subsection (4) of this section, the burden is on the petitioner to demonstrate that any action taken by a state agency, county, or city under this chapter is not in compliance with the requirements of this chapter.

(3) In any petition under this chapter, the board, after full consideration of the petition, shall determine whether there is compliance with the requirements of this chapter. In making its determination, the board shall consider the criteria adopted by the department under RCW 36.70A.190(4). The board shall find compliance unless it

determines that the action by the state agency, county, or city is clearly erroneous in view of the entire record before the board and in light of the goals and requirements of this chapter.

(4) A county or city subject to a determination of invalidity made under RCW 36.70A.300 or 36.70A.302 has the burden of demonstrating that the ordinance or resolution it has enacted in response to the determination of invalidity will no longer substantially interfere with the fulfillment of the goals of this chapter under the standard in RCW 36.70A.302(1).

(5) The shoreline element of a comprehensive plan and the applicable development regulations adopted by a county or city shall take effect as provided in chapter 90.58 RCW.

(6) The greenhouse gas emissions reduction subelement required by RCW 36.70A.070 shall take effect as provided in section 6 of this act.

**Sec. 9.** RCW 36.70A.190 and 2022 c 252 s 5 are each amended to read as follows:

(1) The department shall establish a program of technical and financial assistance and incentives to counties and cities to encourage and facilitate the adoption and implementation of comprehensive plans and development regulations throughout the state.

(2) The department shall develop a priority list and establish funding levels for planning and technical assistance grants both for counties and cities that plan under RCW 36.70A.040. Priority for assistance shall be based on a county's or city's population growth rates, commercial and industrial development rates, the existence and quality of a comprehensive plan and development regulations, the presence of overburdened communities, and other relevant factors. The department shall establish funding levels for grants to community-based organizations for the specific purpose of advancing participation of vulnerable populations and overburdened communities in the planning process.

(3) The department shall develop and administer a grant program to provide direct financial assistance to counties and cities for the preparation of comprehensive plans under this chapter. The department may establish provisions for county and city matching funds to conduct activities under this subsection. Grants may be expended for any purpose directly related to the preparation of a county or city comprehensive plan as the county or city and the department may agree, including, without limitation, the conducting of surveys, inventories and other data gathering and management activities, the retention of planning consultants, contracts with regional councils for planning and related services, and other related purposes.

(4) The department shall establish a program of technical assistance:

(a) Utilizing department staff, the staff of other state agencies, and the technical resources of counties and cities to help in the development of comprehensive plans required under this chapter. The technical

assistance may include, but not be limited to, model land use ordinances, regional education and training programs, and information for local and regional inventories; and

(b) Adopting by rule procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of this chapter. These criteria shall reflect regional and local variations and the diversity that exists among different counties and cities that plan under this chapter.

(5) The department shall provide mediation services to resolve disputes between counties and cities regarding, among other things, coordination of regional issues and designation of urban growth areas.

(6) The department shall provide services to facilitate the timely resolution of disputes between a federally recognized Indian tribe and a city or county.

(a) A federally recognized Indian tribe may request the department to provide facilitation services to resolve issues of concern with a proposed comprehensive plan and its development regulations, or any amendment to the comprehensive plan and its development regulations.

(b) Upon receipt of a request from a tribe, the department shall notify the city or county of the request and offer to assist in providing facilitation services to encourage resolution before adoption of the proposed comprehensive plan. Upon receipt of the notice from the department, the city or county must delay any final action to adopt any comprehensive plan or any amendment or its development regulations for at least 60 days. The tribe and the city or county may jointly agree to extend this period by notifying the department. A county or city must not be penalized for noncompliance under this chapter due to any delays associated with this process.

(c) Upon receipt of a request, the department shall provide comments to the county or city including a summary and supporting materials regarding the tribe's concerns. The county or city may either agree to amend the comprehensive plan as requested consistent with the comments from the department, or enter into a facilitated process with the tribe, which must be arranged by the department using a suitable expert to be paid by the department. This facilitated process may also extend the 60-day delay of adoption, upon agreement of the tribe and the city or county.

(d) At the end of the 60-day period, unless by agreement there is an extension of the 60-day period, the city or county may proceed with adoption of the proposed comprehensive plan and development regulations. The facilitator shall write a report of findings describing the basis for agreements or disagreements that occurred during the process that are allowed to be disclosed by the parties and the resulting agreed-upon elements of the plan to be amended.

(7) The department shall provide planning grants to enhance citizen participation under RCW 36.70A.140.

(8) The department shall develop, in collaboration with the department of ecology, the department of fish and wildlife, the department of natural resources, the department of health, the emergency management division of the military department, as well as any federally recognized tribe who chooses to voluntarily participate, and adopt by rule guidance that creates a model climate change and resiliency element that may be used by counties, cities, and multiple-county planning regions for developing and implementing climate change and resiliency plans and policies required by RCW 36.70A.070(9), subject to the following provisions:

(a) The model element must establish minimum requirements, and may include model options or voluntary cross-jurisdictional strategies, or both, for fulfilling the requirements of RCW 36.70A.070(9);

(b) The model element should provide guidance on identifying, designing, and investing in infrastructure that supports community resilience to climate impacts, including the protection, restoration, and enhancement of natural infrastructure as well as traditional infrastructure and protecting and enhancing natural areas to foster resiliency to climate impacts, as well as areas of vital habitat for safe passage and species migration;

(c) The model element should provide guidance on identifying and addressing natural hazards created or aggravated by climate change, including sea level rise, landslides, flooding, drought, heat, smoke, wildfires, and other effects of reasonably anticipated changes to temperature and precipitation patterns; and

(d) The rule must recognize and promote as many cobenefits of climate resilience as possible such as climate change mitigation, salmon recovery, forest health, ecosystem services, and socioeconomic health and resilience.

NEW SECTION. Sec. 10. A new section is added to chapter 47.80 RCW to read as follows:

The department shall compile, maintain, and publish a summary of the per capita vehicle miles traveled annually in each city in the state, and in the unincorporated portions of each county in the state.

NEW SECTION. Sec. 11. A new section is added to chapter 90.58 RCW to read as follows:

The department shall update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.

Sec. 12. RCW 86.12.200 and 1991 c 322 s 3 are each amended to read as follows:

The county legislative authority of any county may adopt a comprehensive flood control management plan for any drainage basin that is located wholly or partially within the county.

A comprehensive flood control management plan shall include the following elements:

(1) Designation of areas that are susceptible to periodic flooding, from inundation by bodies of water or surface water runoff, or both, including the river's meander belt or floodway;

(2) Establishment of a comprehensive scheme of flood control protection and improvements for the areas that are subject to such periodic flooding, that includes: (a) Determining the need for, and desirable location of, flood control improvements to protect or preclude flood damage to structures, works, and improvements, based upon a cost/benefit ratio between the expense of providing and maintaining these improvements and the benefits arising from these improvements; (b) establishing the level of flood protection that each portion of the system of flood control improvements will be permitted; (c) identifying alternatives to in-stream flood control work; (d) identifying areas where flood waters could be directed during a flood to avoid damage to buildings and other structures; and (e) identifying sources of revenue that will be sufficient to finance the comprehensive scheme of flood control protection and improvements;

(3) Establishing land use regulations that preclude the location of structures, works, or improvements in critical portions of such areas subject to periodic flooding, including a river's meander belt or floodway, and permitting only flood-compatible land uses in such areas;

(4) Establishing restrictions on construction activities in areas subject to periodic floods that require the flood proofing of those structures that are permitted to be constructed or remodeled; ~~((and))~~

(5) Establishing restrictions on land clearing activities and development practices that exacerbate flood problems by increasing the flow or accumulation of flood waters, or the intensity of drainage, on low-lying areas. Land clearing activities do not include forest practices as defined in chapter 76.09 RCW; and

(6) Consideration of climate change impacts, including the impact of sea level rise and increased storm severity on people, property, natural resources, and the environment.

A comprehensive flood control management plan shall be subject to the minimum requirements for participation in the national flood insurance program, requirements exceeding the minimum national flood insurance program that have been adopted by the department of ecology for a specific floodplain pursuant to RCW 86.16.031, and rules adopted by the department of ecology pursuant to RCW 86.26.050 relating to floodplain management activities. When a county plans under chapter 36.70A RCW, it may incorporate the portion of its comprehensive flood control management plan relating to land use restrictions in its comprehensive plan and development regulations adopted pursuant to chapter 36.70A RCW.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.21C RCW to read as follows:

The adoption of ordinances, amendments to comprehensive plans, amendments to development regulations, and other nonproject actions taken by a county or city pursuant to RCW 36.70A.070(9) (d) or (e) in order to implement measures specified by the department of commerce pursuant to section 5 of this act are not subject to administrative or judicial appeals under this chapter.

**Sec. 14.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Affordable housing" means, unless the context clearly indicates otherwise, residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

(a) For rental housing, ~~((sixty))~~ 60 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development; or

(b) For owner-occupied housing, ~~((eighty))~~ 80 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(3) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(4) "City" means any city or town, including a code city.

(5) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(6) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

(7) "Department" means the department of commerce.

(8) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(9) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

(10) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

(11) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(12) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forestland to other uses.

(13) "Freight rail dependent uses" means buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of goods where the use is dependent on and makes use of an adjacent short line railroad. Such facilities are both urban and rural development for purposes of this chapter.

"Freight rail dependent uses" does not include buildings and other infrastructure that are used in the fabrication, processing, storage, and transport of coal, liquefied natural gas, or "crude oil" as defined in RCW 90.56.010.

(14) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(15) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(16) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(17) "Minerals" include gravel, sand, and valuable metallic substances.

(18) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 120 percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(19) "Permanent supportive housing" is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

(20) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(21) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(22) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(23) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(24) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(25) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(26) "Short line railroad" means those railroad lines designated class II or class III by the United States surface transportation board.

(27) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities

associated with urban areas and normally not associated with rural areas.

(28) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(29) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(30) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below fifty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

(31) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

(32) "Per capita vehicle miles traveled" means the number of miles traveled using cars and light trucks in a calendar year divided by the number of residents in Washington. The calculation of this value excludes vehicle miles driven conveying freight.

(33) "Active transportation" means forms of pedestrian mobility including walking or running, the use of a mobility assistive device such as a wheelchair, bicycling and cycling irrespective of the number of wheels, and the use of small personal devices such as foot scooters or skateboards. Active transportation includes both traditional and electric assist bicycles and other devices. Planning for active transportation must consider and address accommodation pursuant to the Americans with disabilities act and the

distinct needs of each form of active transportation.

(34) "Transportation system" means all infrastructure and services for all forms of transportation within a geographical area, irrespective of the responsible jurisdiction or transportation provider.

(35) "Environmental justice" means the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities and the equitable distribution of resources and benefits.

(36) "Active transportation facilities" means facilities provided for the safety and mobility of active transportation users including, but not limited to, trails, as defined in RCW 47.30.005, sidewalks, bike lanes, shared-use paths, and other facilities in the public right-of-way.

(37) "Green space" means an area of land, vegetated by natural features such as grass, trees, or shrubs, within an urban context and less than one acre in size that creates public value through one or more of the following attributes:

(a) Is accessible to the public;

(b) Promotes physical and mental health of residents;

(c) Provides relief from the urban heat island effects;

(d) Promotes recreational and aesthetic values;

(e) Protects streams or water supply; or

(f) Preserves visual quality along highway, road, or street corridors.

(38) "Green infrastructure" means a wide array of natural assets and built structures within an urban growth area boundary, including parks and other areas with protected tree canopy, and management practices at multiple scales that manage wet weather and that maintain and restore natural hydrology by storing, infiltrating, evapotranspiring, and harvesting and using stormwater.

(39) "Wildland urban interface" means the geographical area where structures and other human development meets or intermingles with wildland vegetative fuels.

(40) "Overburdened community" means a geographic area where vulnerable populations face combined, multiple environmental harms and health impacts, and includes, but is not limited to, highly impacted communities as defined in RCW 19.405.020.

(41)(a) "Vulnerable populations" means population groups that are more likely to be at higher risk for poor health outcomes in response to environmental harms, due to: (i) Adverse socioeconomic factors, such as unemployment, high housing and transportation costs relative to income, limited access to nutritious food and adequate health care, linguistic isolation, and other factors that negatively affect health outcomes and increase vulnerability to the effects of environmental harms; and

(ii) sensitivity factors, such as low birth weight and higher rates of hospitalization.

(b) "Vulnerable populations" includes, but is not limited to:

(i) Racial or ethnic minorities;

(ii) Low-income populations; and

(iii) Populations disproportionately impacted by environmental harms.

**Sec. 15.** RCW 36.70A.130 and 2022 c 287 s 1 and 2022 c 192 s 1 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ~~((ten))~~ 10-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:



(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440, provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsections (4) and (5) of this section, its designated urban growth area or areas, patterns of development occurring within the urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding (~~twenty~~) 20-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(c) If, during the county's review under (a) of this subsection, the county determines revision of the urban growth area is not required to accommodate the urban growth projected to occur in the county for the succeeding 20-year period, but does determine that patterns of development have created pressure in areas that exceed available, developable lands within the urban growth area, the urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met:

(i) The revised urban growth area may not result in an increase in the total surface areas of the urban growth area or areas;

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance;

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas;

(iv) The areas added to the urban growth areas are suitable for urban growth;

(v) The transportation element and capital facility plan element have identified the transportation facilities, and public facilities and services needed to serve the urban growth area and the funding to provide the transportation facilities and public facilities and services;

(vi) The urban growth area is not larger than needed to accommodate the growth planned for the succeeding 20-year planning period and a reasonable land market supply factor;

(vii) The areas removed from the urban growth area do not include urban growth or urban densities; and

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands.

(4) Except as otherwise provided in subsections (6) and (8) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before June 30, 2015, for King, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2016, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2017, for Benton, Chelan, Cowlitz, Douglas, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2018, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section,

following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) ~~((ten))~~ Except as provided in subsection (10) of this section, on or before December 31, 2024, with the following review and, if needed, revision on or before June 30, 2034, and then every ~~((ten))~~ 10 years thereafter, for King, Kitsap, Pierce, and Snohomish counties and the cities within those counties;

(b) On or before June 30, 2025, and every ~~((ten))~~ 10 years thereafter, for Clallam, Clark, Island, Jefferson, Lewis, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(c) On or before June 30, 2026, and every ~~((ten))~~ 10 years thereafter, for Benton, Chelan, Cowlitz, Douglas, Franklin, Kittitas, Skamania, Spokane, Walla Walla, and Yakima counties and the cities within those counties; and

(d) On or before June 30, 2027, and every ~~((ten))~~ 10 years thereafter, for Adams, Asotin, Columbia, Ferry, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(d) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70A.135 RCW:

(i) Complying with the deadlines in this section; or

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas.

(b) A county or city that is fewer than ~~((twelve))~~ 12 months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under RCW 36.70A.710(1) may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with RCW 36.70A.725;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under RCW 36.70A.720;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ~~((ten))~~ 10 years from the date of receipt of funding, a county that has made the election under RCW 36.70A.710(1) must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under RCW 36.70A.720(2)(c)(ii) that the watershed's goals and benchmarks for protection have been met.

(9)(a) Counties subject to planning deadlines established in subsection (5) of this section that are required or that choose to plan under RCW 36.70A.040 and that

meet either criteria of (a)(i) or (ii) of this subsection, and cities with a population of more than 6,000 as of April 1, 2021, within those counties, must provide to the department an implementation progress report detailing the progress they have achieved in implementing their comprehensive plan five years after the review and revision of their comprehensive plan. Once a county meets the criteria in (a)(i) or (ii) of this subsection, the implementation progress report requirements remain in effect thereafter for that county and the cities therein with populations greater than 6,000 as of April 1, 2021, even if the county later no longer meets either or both criteria. A county is subject to the implementation progress report requirement if it meets either of the following criteria on or after April 1, 2021:

(i) The county has a population density of at least 100 people per square mile and a population of at least 200,000; or

(ii) The county has a population density of at least 75 people per square mile and an annual growth rate of at least 1.75 percent as determined by the office of financial management.

(b) The department shall adopt guidelines for indicators, measures, milestones, and criteria for use by counties and cities in the implementation progress report that must cover:

(i) The implementation of previously adopted changes to the housing element and any effect those changes have had on housing affordability and availability within the jurisdiction;

(ii) Permit processing timelines; and

(iii) Progress toward implementing any actions required to achieve reductions to meet greenhouse gas and vehicle miles traveled requirements as provided for in any element of the comprehensive plan under RCW 36.70A.070.

(c) If a city or county required to provide an implementation progress report under this subsection (9) has not implemented any specifically identified regulations, zoning and land use changes, or taken other legislative or administrative action necessary to implement any changes in the most recent periodic update in their comprehensive plan by the due date for the implementation progress report, the city or county must identify the need for such action in the implementation progress report. Cities and counties must adopt a work plan to implement any necessary regulations, zoning and land use changes, or take other legislative or administrative action identified in the implementation progress report and complete all work necessary for implementation within two years of submission of the implementation progress report.

(10) Any county or city that is required by section 4 of this act to include in its comprehensive plan a climate change and resiliency element and that is also required by subsection (5)(a) of this section to review and, if necessary, revise its comprehensive plan on or before December 31, 2024, must update its transportation element and incorporate a climate change and resiliency element into its comprehensive

plan as part of the first implementation progress report required by subsection (9) of this section if funds are appropriated and distributed by December 31, 2027, as required under RCW 36.70A.070(10).

**NEW SECTION. Sec. 16.** A new section is added to chapter 36.70A RCW to read as follows:

(1) Notwithstanding the requirements of RCW 36.70A.070(10), it is the intent that jurisdictions subject to RCW 36.70A.130(5) (b) implement the requirements of this act on or before June 30, 2025. Any funding provided to cover applicable local government costs related to implementation of this act shall be considered timely.

(2) This section expires July 31, 2025.

**NEW SECTION. Sec. 17.** A new section is added to chapter 43.20 RCW to read as follows:

(1)(a) Beginning with water system plans initiated after June 30, 2025, the department shall ensure water system plans for group A community public water systems serving 1,000 or more connections include a climate resilience element at the time of approval.

(b) The department must update its water system planning guidebook to assist water systems in implementing the climate resilience element, including guidance on any available technical and financial resources.

(c) The department shall provide technical assistance to public water systems based on their system size, location, and water source, by providing references to existing state or federal risk management, climate resiliency, or emergency management and response tools that may be used to satisfy the climate resilience element.

(d) Subject to the availability of amounts appropriated for this specific purpose, the University of Washington climate impacts group shall assist the department in the development of tools for the technical assistance to be provided in (c) of this subsection.

(2) To fulfill the requirements of the climate resilience element, water systems must:

(a) Determine which extreme weather events pose significant challenges to their system and build scenarios to identify potential impacts;

(b) Assess critical assets and the actions necessary to protect the system from the consequences of extreme weather events on system operations; and

(c) Generate reports describing the costs and benefits of the system's risk reduction strategies and capital project needs.

(3) Climate readiness projects, including planning to meet the requirements of this section and actions to protect a water system from extreme weather events, including infrastructure and design projects, are eligible for financial assistance under RCW 70A.125.180. The department must develop grant and loan eligibility criteria and consider applications from water systems that identify climate readiness projects.

**Sec. 18.** RCW 70A.125.180 and 2020 c 20 s 1359 are each amended to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department shall provide financial assistance through a water system acquisition and rehabilitation program, hereby created. (~~The program shall be jointly administered with the public works board and the department of commerce.~~) The ~~((agencies))~~ department shall adopt guidelines for the program using as a model the procedures and criteria of the drinking water revolving loan program authorized under RCW 70A.125.160. All financing provided through the program must be in the form of grants or loans that partially cover project costs, including projects and planning required under section 17 of this act. The maximum grant or loan to any eligible entity may not exceed ~~((twenty-five))~~ 25 percent of the funds allocated to the appropriation in any fiscal year.

NEW SECTION. **Sec. 19.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "framework;" strike the remainder of the title and insert "amending RCW 36.70A.020, 36.70A.480, 36.70A.280, 36.70A.320, 36.70A.190, 86.12.200, 36.70A.030, and 70A.125.180; reenacting and amending RCW 36.70A.070 and 36.70A.130; adding new sections to chapter 36.70A RCW; adding a new section to chapter 70A.45 RCW; adding a new section to chapter 47.80 RCW; adding a new section to chapter 90.58 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 43.20 RCW; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

#### MOTION

Representative Duerr moved that the House concur with the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181.

#### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1562, with the following amendment(s): 1562-S AMS WM S2952.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that gun violence is a multifaceted public health problem that includes suicide, homicide, intimate partner violence, community violence, mass violence, nonfatal gunshot injuries and threats, with community violence and mass violence often committed by those with a history of domestic violence. National data indicates that in 2021, approximately 20,996 Americans died by firearm homicide and that 81 percent of all homicides are committed with a firearm. According to United States centers for disease control and prevention data, gun homicide disproportionately impacts people of color, especially Black males ages 15 to 34, who are 20 times more likely to die by gun violence than white males in the same age group. Black, Indigenous, and Latinx women are at higher risk for intimate partner violence-related homicide, and disparities in homicide rates are

Representative Duerr spoke in favor of the motion.

Representative Goehner spoke against the motion.

The motion to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181 was adopted.

#### SENATE AMENDMENT TO HOUSE BILL

The House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181 and advanced the bill, as amended by the Senate, to final passage.

Representative Duerr spoke in favor of the passage of the bill.

Representative Goehner spoke against the passage of the bill.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1181, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1181, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 55; Nays, 41; Absent, 0; Excused, 2

Voting Yea: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Kloba, Leavitt, Lekanoff, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Ryu, Santos, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Barkis, Barnard, Caldier, Chambers, Chandler, Cheney, Christian, Connors, Corry, Couture, Dent, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Rule, Sandlin, Schmick, Schmidt, Steele, Stokesbary, Volz, Walsh, Waters, Wilcox and Ybarra

Excused: Representatives Ortiz-Self and Reeves

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1181, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

especially pronounced among women between 18 and 29 years of age. Nearly 60 percent of intimate partner violence-related homicides involve firearms.

(2) When perpetrators of intimate partner violence, including physical violence, sexual abuse, stalking, and psychological aggression of a current or former intimate partner, have access to firearms, women are especially at risk of serious or deadly harm. When an abusive partner or former partner owns or has access to a firearm, the likelihood of intimate partner homicide increases by a factor of five. Women in the United States are 21 times more likely to be killed with a gun than women in other high-income countries. There are about 4,500,000 women in America who have been threatened with a gun and nearly 1,000,000 women who have been shot or shot at by an intimate partner. Perpetrators of intimate partner violence who have access to firearms also use them to coerce, control, and intimidate their partners.

(3) Many who seek protection from harm through the civil legal system, and obtain a protection order and an order to surrender and prohibit weapons, may not wish to engage the criminal legal system or to have the threat or violence they have experienced be prosecuted. According to the national intimate partner and sexual violence survey, more than one in two non-Hispanic Black women, American Indian, or Alaskan Native women, three in five multiracial non-Hispanic women, and two in five Hispanic women have been a victim of physical violence, rape, and/or stalking by a partner in their lifetime. But they are far less likely to report the crimes, due to distrust of the criminal legal system, intergenerational trauma, fear of police interaction, and concern about over incarceration. For many, the threat of violence continues over a long period of time, making it critical that access to firearms is appropriately limited when there are ongoing indicators of risk as reflected by a protection order, an order to surrender and prohibit weapons, or violations of these orders.

(4) An extensive body of research has identified specific risk factors that increase the likelihood of individuals engaging in future violence, including gun violence, and presenting further risk to public safety. The strongest predictor of future violence is prior violent behavior, including perpetration of domestic violence and violent misdemeanors. Other particularly strong risk factors for future violence include recent violation of a domestic violence protection order or other protection order; frequent risky alcohol use or certain types of controlled substance use; and cruelty to animals. Unlawful or reckless use, display, or brandishing of a firearm and recent acquisition of firearms, ammunition, or other deadly weapons are also risk factors for future violence, as is access to firearms in general. Multiple research studies have also shown that easy access to firearms by the general public increases risk of death by both homicide and suicide. Individuals returning from incarceration are a vulnerable population for whom these risks may be compounded. Furthermore, homicide and suicide (by any means) are leading causes of death for returning residents after they are released from prison, especially soon after release. Research provides important guidance regarding events that should result in temporary prohibition of firearm rights so that the laws regarding firearm possession and the restoration of firearm rights are grounded in risk assessment data to help protect public health and safety while upholding individual liberty. These changes are not intended to punish, but to provide a regulatory framework to help ensure the safety of those with a heightened risk of experiencing gun violence.

(5) The laws requiring certain individuals who are subject to protection orders, no-contact orders, or restraining orders to immediately relinquish dangerous weapons and concealed pistol licenses, and be prohibited from possessing or purchasing firearms, have been strengthened in recent years to help better address the risks that access to firearms by those individuals poses for survivors and their children. The legislature finds that similarly strengthening the laws regarding unlawful possession and restoration of firearm rights will protect these survivors, and their families and communities, from added risk of harm, and include their personal knowledge regarding possible violations of firearm prohibitions in the restoration petition process.

(6) The legislature also finds it would be helpful to refine statutory language that was at issue in the Washington state supreme court's decision in *State v. Dennis*, 191 Wn.2d 169 (2018). In that decision, the court held that absent more specific language in RCW 9.41.040 regarding the five-year waiting period before a person may petition to have the person's firearm rights restored, the requisite waiting period may include any conviction-free period of five or more consecutive years, even if a person had been convicted of a new crime within the five years immediately preceding the person's filing of a petition for restoration of firearm rights. The legislature intends to clarify that a person may not petition to have the person's firearm rights restored if the person has been convicted of a new prohibiting crime within the specified number of consecutive years immediately preceding the person's filing of a petition.

(7) The legislature also finds that it is important to recognize and remove barriers for individuals who have demonstrated that they have safely reintegrated into their communities.

**Sec. 2.** RCW 9.41.010 and 2022 c 105 s 2 and 2022 c 104 s 2 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) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in

or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Assemble" means to fit together component parts.

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

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

(5) "Crime of violence" means:

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

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

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

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

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

(8) "Distribute" means to give out, provide, make available, or deliver a firearm or large capacity magazine to any person in this state, with or without consideration, whether the distributor is in-state or out-of-state. "Distribute" includes, but is not limited to, filling orders placed in this state, online or otherwise. "Distribute" also includes causing a firearm or large capacity magazine to be delivered in this state.

(9) "Family or household member" has the same meaning as in RCW 7.105.010.

(10) "Federal firearms dealer" means a licensed dealer as defined in 18 U.S.C. Sec. 921(a)(11).

(11) "Federal firearms importer" means a licensed importer as defined in 18 U.S.C. Sec. 921(a)(9).

(12) "Federal firearms manufacturer" means a licensed manufacturer as defined in 18 U.S.C. Sec. 921(a)(10).

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

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

(15) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter;

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(16) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. For the purposes of RCW 9.41.040, "firearm" also includes frames and receivers. "Firearm" does not include a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely to be used for construction purposes.

(17)(a) "Frame or receiver" means a part of a firearm that, when the complete firearm is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect the fire control components. Any such part identified with a serial number shall be presumed, absent an official determination by the bureau of alcohol, tobacco, firearms, and explosives or other reliable evidence to the contrary, to be a frame or receiver.

(b) For purposes of this subsection, "fire control component" means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails.

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

(19) "Import" means to move, transport, or receive an item from a place outside the territorial limits of the state of Washington to a place inside the territorial limits of the

state of Washington. "Import" does not mean situations where an individual possesses a large capacity magazine when departing from, and returning to, Washington state, so long as the individual is returning to Washington in possession of the same large capacity magazine the individual transported out of state.

(20) "Intimate partner" has the same meaning as provided in RCW 7.105.010.

(21) "Large capacity magazine" means an ammunition feeding device with the capacity to accept more than 10 rounds of ammunition, or any conversion kit, part, or combination of parts, from which such a device can be assembled if those parts are in possession of or under the control of the same person, but shall not be construed to include any of the following:

(a) An ammunition feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds of ammunition;

(b) A 22 caliber tube ammunition feeding device; or

(c) A tubular magazine that is contained in a lever-action firearm.

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

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

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

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

(26) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Cartridges are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;

(d) There is a cartridge in the tube or magazine that is inserted in the action; or

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

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

(28) "Manufacture" means, with respect to a firearm or large capacity magazine, the fabrication, making, formation, production, or construction of a firearm or large capacity magazine, by manual labor or by machinery.

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

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

(31) "Pistol" means any firearm with a barrel less than 16 inches in length, or is designed to be held and fired by the use of a single hand.

(32) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

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

(34) "Secure gun storage" means:

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

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

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

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

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

(a) Any crime of violence;

(b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least 10 years;

(c) Child molestation in the second degree;

(d) Incest when committed against a child under age 14;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Drive-by shooting;

(j) Sexual exploitation;

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

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

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

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

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

(p) Any felony conviction under RCW 9.41.115; or

(q) Any felony charged under RCW 46.61.502(6) or 46.61.504(6).

(37) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than 26 inches.

(38) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than 26 inches.

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

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

(41) "Undetectable firearm" means any firearm that is not as detectable as 3.7 ounces of 17-4 PH stainless steel by walk-through metal detectors or magnetometers commonly used at airports or any firearm where the barrel, the slide or cylinder, or the frame or receiver of the firearm would not generate an image that accurately depicts the shape of the part when examined by the types of X-ray machines commonly used at airports.

(42)(a) "Unfinished frame or receiver" means a frame or receiver that is partially complete, disassembled, or inoperable, that: (i) Has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state; or (ii) is marketed or sold to the public to become or be used as the frame or receiver of a functional firearm once finished or completed, including without limitation products marketed or sold to the public as an 80 percent frame or receiver or unfinished frame or receiver.

(b) For purposes of this subsection:

(i) "Readily" means a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following: (A) Time, i.e., how long it takes to finish the process; (B) ease, i.e., how difficult it is to do so; (C) expertise, i.e., what knowledge and skills are required; (D) equipment, i.e., what tools are required; (E) availability, i.e., whether additional parts are required, and how easily they can be obtained; (F) expense, i.e., how much it costs; (G) scope, i.e., the extent to which the subject of the process must be changed to finish it; and (H) feasibility, i.e., whether the process would damage or destroy the subject of the process, or cause it to malfunction.

(ii) "Partially complete," as it modifies frame or receiver, means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a firearm.

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

(44) "Untraceable firearm" means any firearm manufactured after July 1, 2019, that is not an antique firearm and that cannot be traced by law enforcement by means of a serial number affixed to the firearm by a federal firearms manufacturer, federal firearms importer, or federal firearms dealer in compliance with all federal laws and regulations.

(45) "Conviction" or "convicted" means, whether in an adult court or adjudicated in a juvenile court, that a plea of guilty has been accepted or a verdict of guilty has been filed, or a finding of guilt has been entered, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, posttrial or post-fact-finding motions, and appeals. "Conviction" includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state.

(46) "Domestic violence" has the same meaning as provided in RCW 10.99.020.

(47) "Sex offense" has the same meaning as provided in RCW 9.94A.030.

**Sec. 3.** RCW 9.41.040 and 2022 c 268 s 28 are each amended to read as follows:

(1)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, accesses, has in (~~his or her~~)the person's custody, control, or possession, (~~(or has in his or her control)~~)or



receives any firearm after having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of any serious offense (~~(as defined in this chapter)~~).

(b) Unlawful possession of a firearm in the first degree is a class B felony punishable according to chapter 9A.20 RCW.

(2)(a) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a firearm in the second degree, if the person does not qualify under subsection (1) of this section for the crime of unlawful possession of a firearm in the first degree and the person owns, accesses, has in (~~(his or her)~~)the person's custody, control, or possession, (~~(or has in his or her control)~~)or receives any firearm:

(i) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of (~~(any)~~):

(A) Any felony not specifically listed as prohibiting firearm possession under subsection (1) of this section(~~(, or any)~~);

(B) Any of the following crimes when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 10.99.040 or any of the former RCW 26.50.060, 26.50.070, and 26.50.130);

(~~((ii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of)~~)(C) Harassment when committed by one family or household member against another or by one intimate partner against another, as those terms are defined by the statutes in effect at the time of the commission of the crime, committed on or after June 7, 2018;

(~~((iii) After having previously been convicted or found not guilty by reason of insanity in this state or elsewhere of a)~~)(D) Any of the following misdemeanor or gross misdemeanor crimes not included under (a)(i) (B) or (C) of this subsection, committed on or after the effective date of this section: Domestic violence (RCW 10.99.020); stalking; cyberstalking; cyber harassment, excluding cyber harassment committed solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i); harassment; aiming or discharging a firearm (RCW 9.41.230); unlawful carrying or handling of a firearm (RCW 9.41.270); animal cruelty in the second degree committed under RCW 16.52.207(1); or any prior offense as defined in RCW 46.61.5055(14) if committed within seven years of a conviction for any other prior offense under RCW 46.61.5055;

(E) A violation of the provisions of a protection order under chapter 7.105 RCW restraining the person or excluding the person from a residence, when committed by one family or household member against another or by one intimate partner against another, committed on or after July 1, 2022; or

(~~((iv))~~)(F) A violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of any other protection order or no-contact order not included under (a)(i) (B) or (E) of this subsection restraining the person or excluding the person from a residence, committed on or after the effective date of this section;

(ii) During any period of time that the person is subject to a (~~(court order)~~)protection order, no-contact order, or restraining order by a court issued under chapter 7.105, 9A.40, 9A.44, 9A.46, 9A.88, 10.99, 26.09, 26.26A, or 26.26B RCW or any of the former chapters 7.90, 7.92, 10.14, and 26.50 RCW that:

(A) Was issued after a hearing for which the person received actual notice, and at which the person had an opportunity to participate, whether the court then issues a full order or reissues a temporary order. If the court enters an agreed order by the parties without a hearing, such an order meets the requirements of this subsection;

(B) Restrains the person from harassing, stalking, or threatening the person protected under the order or child of the person or protected person, or others identified in the order, or engaging in other conduct that would place the protected person in reasonable fear of bodily injury to the protected person or child or others identified in the order; and

(C) (I) Includes a finding that the person represents a credible threat to the physical safety of the protected person or child or others identified in the order, or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against the protected person or child or other persons that would reasonably be expected to cause bodily injury; or

(II) Includes an order under RCW 9.41.800 requiring the person to surrender all firearms and prohibiting the person from accessing, having in his or her custody or control, possessing, purchasing, receiving, or attempting to purchase or receive, firearms;

(~~((v))~~)(iii) After having previously been involuntarily committed based on a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(~~((vi))~~)(iv) After dismissal of criminal charges based on incompetency to stand trial under RCW 10.77.088 when the court has made a finding indicating that the defendant has a history of one or more violent acts, unless his or her right to possess a firearm has been restored as provided in RCW 9.41.047;

(~~((vii))~~)(v) If the person is under 18 years of age, except as provided in RCW 9.41.042; and/or

(~~((viii))~~)(vi) If the person is free on bond or personal recognizance pending trial(~~(or appeal, or sentencing)~~) for a serious offense as defined in RCW 9.41.010.

(b) Unlawful possession of a firearm in the second degree is a class C felony punishable according to chapter 9A.20 RCW.

(3) ~~((Notwithstanding RCW 9.41.047 or any other provisions of law, as used in this chapter, a person has been "convicted," whether in an adult court or adjudicated in a juvenile court, at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including, but not limited to, sentencing or disposition, post-trial or post-fact-finding motions, and appeals. Conviction includes a dismissal entered after a period of probation, suspension, or deferral of sentence, and also includes equivalent dispositions by courts in jurisdictions other than Washington state.))~~ A person shall not be precluded from possession of a firearm if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. Where no record of the court's disposition of the charges can be found, there shall be a rebuttable presumption that the person was not convicted of the charge.

(4) ~~((a))~~ Notwithstanding subsection (1) or (2) of this section, a person convicted or found not guilty by reason of insanity of an offense prohibiting the possession of a firearm under this section other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401 and 69.50.410, who received a probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from possession of a firearm as a result of the conviction or finding of not guilty by reason of insanity. ~~((Notwithstanding any other provisions of this section, if a person is prohibited from possession of a firearm under subsection (1) or (2) of this section and has not previously been convicted or found not guilty by reason of insanity of a sex offense prohibiting firearm ownership under subsection (1) or (2) of this section and/or any felony defined under any law as a class A felony or with a maximum sentence of at least 20 years, or both, the individual may petition a court of record to have his or her right to possess a firearm restored:~~

~~(i) Under RCW 9.41.047; and/or~~

~~(ii) (A) If the conviction or finding of not guilty by reason of insanity was for a felony offense, after five or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525; or~~

~~(B) If the conviction or finding of not guilty by reason of insanity was for a nonfelony offense, after three or more consecutive years in the community without being convicted or found not guilty by reason of insanity or currently charged with any felony, gross misdemeanor, or misdemeanor crimes, if the individual has no prior felony convictions that prohibit the possession of a firearm counted as part of the offender score under RCW 9.94A.525 and the individual has completed all conditions of the sentence.~~

~~(b) An individual may petition a court of record to have his or her right to possess a firearm restored under (a) of this subsection only at:~~

~~(i) The court of record that ordered the petitioner's prohibition on possession of a firearm; or~~

~~(ii) The superior court in the county in which the petitioner resides.)~~

(5) In addition to any other penalty provided for by law, if a person under the age of 18 years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) or (2) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within 24 hours and the person's privilege to drive shall be revoked under RCW 46.20.265, unless the offense is the juvenile's first offense in violation of this section and has not committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.52, 69.41, or 69.50 RCW.

(6) Nothing in chapter 129, Laws of 1995 shall ever be construed or interpreted as preventing an offender from being charged and subsequently convicted for the separate felony crimes of theft of a firearm or possession of a stolen firearm, or both, in addition to being charged and subsequently convicted under this section for unlawful possession of a firearm in the first or second degree. Notwithstanding any other law, if the offender is convicted under this section for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, then the offender shall serve consecutive sentences for each of the felony crimes of conviction listed in this subsection.

(7) Each firearm unlawfully possessed under this section shall be a separate offense.

(8) A person may petition to restore the right to possess a firearm as provided in section 4 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9.41 RCW to read as follows:

(1) A person who is prohibited from possession of a firearm under RCW 9.41.040 may not petition a court to have the person's right to possess a firearm restored if the person has been convicted or found not guilty by reason of insanity of: A felony sex offense; a class A felony; or a felony offense with a maximum sentence of at least 20 years.

(2) A person who is prohibited from possession of a firearm under RCW 9.41.040, and is not disqualified from petitioning for restoration of firearm rights under subsection (1) of this section or required to petition as provided for in RCW 9.41.047, may petition a superior court to have the person's right to possess a firearm restored.

(a) The person must have, for the period of consecutive years as specified below immediately preceding the filing of the petition, been in the community without being convicted or found not guilty by reason of insanity of any crime that prohibits the possession of a firearm, as follows:

(i) Five years for a conviction or finding of not guilty by reason of insanity for any felony offense, or any of the following gross misdemeanor or misdemeanor offenses:

(A) Domestic violence (RCW 10.99.020);  
(B) Stalking;  
(C) Cyberstalking;  
(D) Cyber harassment, excluding cyber harassment committed solely pursuant to the element set forth in RCW 9A.90.120(1)(a)(i);

(E) Harassment;

(F) Aiming or discharging a firearm (RCW 9.41.230);

(G) Unlawful carrying or handling of a firearm (RCW 9.41.270);

(H) Animal cruelty in the second degree committed under RCW 16.52.207(1);

(I) Prior offense as defined by RCW 46.61.5055; or

(J) Violation of the provisions of an order to surrender and prohibit weapons, an extreme risk protection order, or the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence; and

(ii) Three years for a conviction or finding of not guilty by reason of insanity for one or more nonfelony crimes not covered in (a)(i) of this subsection.

(b) The person petitioning for firearm rights to be restored must also meet the following requirements:

(i) Has no pending charges for any felony, gross misdemeanor, or misdemeanor crime at the time the petition is filed or during the petition process;

(ii) Has completed all sentencing conditions, other than nonrestitution fines and fees, for each felony, gross misdemeanor, or misdemeanor conviction on which the prohibition was based, including all court-ordered treatment. The court shall waive the requirement of this subsection (2)(b)(ii) if the petitioner provides verification from the sentencing court that relevant court records are no longer available, or attests to the unavailability of relevant records from other entities;

(iii) Has no prior felony convictions that would count as part of an offender score under RCW 9.94A.525 and has no out-of-state conviction for an offense which would disqualify the person from purchasing or possessing a firearm in the state of conviction. This determination shall be the responsibility of, and conducted by, the prosecuting attorney. An individual shall not be precluded from filing a petition to restore their firearm rights on the basis that they cannot verify whether they are disqualified from purchasing or possessing a firearm in the state of conviction; and

(iv) Has been determined by law enforcement based on available records and information as not subject to any other prohibition on possessing a firearm at the time the petition for the restoration of firearm rights is filed or during the petition process, and would be able to pass a background check to purchase a firearm if the petition to restore firearm rights is granted.

(3) The process for petitioning for restoration of firearm rights is as follows:

(a) The person must file a petition in a superior court in a county that entered any prohibition.

(b) At the time of filing the petition, the person must serve the prosecuting attorney in the county where the petition is filed with the petition.

(c) Upon receipt of service of the petition, the prosecuting attorney must take reasonable steps to notify the listed victim of a prohibiting crime and any person who previously obtained a full protection order or no-contact order against the person petitioning for restoration of firearm rights, if those persons have requested notification, of the procedure to provide a sworn written statement regarding the existence of any additional facts or information that they may have relevant to whether the person petitioning for restoration of firearm rights meets the requirements for restoration set forth in this section.

(d) The prosecuting attorney must verify in writing to the court that the prosecuting attorney has reviewed the relevant records, including written verification from Washington state patrol that Washington state patrol has conducted a records check of all civil and criminal records relevant to the prohibitors in RCW 9.41.040, and based on that information, whether there is sufficient evidence to determine that the person petitioning for restoration of firearm rights meets all the requirements set forth in RCW 9.41.040 and in this section to petition for and to be granted restoration of firearm rights.

(e) The court may set a hearing on the petition if the court determines additional information is necessary to determine whether the person meets the requirements for restoration of firearm rights.

(f) The court shall grant the petition only if the court finds that the person petitioning for restoration of firearm rights meets the requirements set forth in this section.

(g) The prosecuting attorney shall notify any victim who requests notification of the court's decision.

(4) When a person's right to possess a firearm has been restored under this section, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the Washington state patrol with a copy of the person's driver's license or identicard, or comparable identification such as the person's name, address, and date of birth.

(5) By December 30, 2023, the administrative office of the courts shall develop and distribute standard forms for petitions and orders issued under this section and RCW 9.41.047, and update protection order and no-contact order forms to allow victims to opt out of the notification provided for in this section if they do not wish to be notified at the time of a petition for firearm rights restoration. Beginning January 1, 2024, courts shall use the standard forms for petitions and orders under this section and RCW 9.41.047, and the updated protection order and no-contact order forms.

(6) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of local government and its employees as provided in RCW 36.28A.010, are immune from civil liability for good faith conduct in the performance of the official's, employee's, or agency's duties under this section.

**Sec. 5.** RCW 9.41.047 and 2020 c 302 s 60 are each amended to read as follows:

(1)(a) At the time a person is convicted or found not guilty by reason of insanity of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW for ~~((mental health))~~ treatment for a mental disorder, or at the time that charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the ~~((convicting or committing court, or))~~ court ~~((that dismisses charges,))~~ shall notify the person, orally and in writing, that the person must immediately surrender all firearms and any concealed pistol license and that the person may not possess a firearm unless ~~((his or her))~~ the person's right to do so is restored by ~~((a))~~ the superior court ~~((of record. For purposes of this section a convicting court includes a court in which a person has been found not guilty by reason of insanity))~~ that issued the order.

(b) The court shall forward within three judicial days after conviction, finding of not guilty by reason of insanity, entry of the commitment order, or dismissal of charges, a copy of the person's driver's license or identicard, or comparable information such as ~~((their))~~ the person's name, address, and date of birth, along with the date of conviction or commitment, or date charges are dismissed, to the department of licensing. When a person is committed by court order under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, or chapter 10.77 RCW, for ~~((mental health))~~ treatment for a mental disorder, or when a person's charges are dismissed based on incompetency to stand trial under RCW 10.77.088 and the court makes a finding that the person has a history of one or more violent acts, the court also shall forward, within three judicial days after entry of the commitment order, or dismissal of charges, a copy of the person's driver's license, or comparable information, along with the date of commitment or date charges are dismissed, to the national instant criminal background check system index, denied persons file, created by the federal Brady handgun violence prevention act (P.L. 103-159) and to the Washington state patrol. The petitioning party shall provide the court with the information required. If more than one commitment order is entered under one cause number, only one notification to the department of licensing and the national instant criminal background check system is required.

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the ~~((convicted or committed))~~ person ~~((, or the person whose charges are dismissed based on incompetency to stand trial,))~~ has a concealed pistol license. If the person ~~((does have))~~ has a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of such notification, shall immediately revoke the license.

(3)(a) A person who is prohibited from possessing a firearm, by reason of having been involuntarily committed for ~~((mental health))~~ treatment for a mental disorder under RCW 71.05.240, 71.05.320, 71.34.740, 71.34.750, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, or by reason of having been detained under RCW 71.05.150 or 71.05.153, or because the person's charges were dismissed based on incompetency to stand trial under RCW 10.77.088 and the court made a finding that the person has a history of one or more violent acts, may, upon discharge, petition the superior court to have his or her right to possess a firearm restored, except that a person found not guilty by reason of insanity may not petition for restoration of the right to possess a firearm until one year after discharge.

(b) The petition must be brought in the superior court that ordered the involuntary commitment or dismissed the charges based on incompetency to stand trial or the superior court of the county in which the petitioner resides.

(c) Except as provided in (d) and (e) of this subsection, ~~((the court shall restore the petitioner's right to possess a firearm))~~ firearm rights shall be restored if the ~~((petitioner))~~ person petitioning for restoration of firearm rights proves by a preponderance of the evidence that:

(i) The ~~((petitioner))~~ person petitioning for restoration of firearm rights is no longer required to participate in court-ordered inpatient or outpatient treatment;

(ii) The ~~((petitioner))~~ person petitioning for restoration of firearm rights has successfully managed the condition related to the commitment or detention or incompetency;

(iii) The ~~((petitioner))~~ person petitioning for restoration of firearm rights no longer presents a substantial danger to ~~((himself or herself,))~~ self or to the public; and

(iv) The symptoms related to the commitment or detention or incompetency are not reasonably likely to recur.

(d) If a preponderance of the evidence in the record supports a finding that the person petitioning ~~((the court))~~ for restoration of firearm rights has engaged in violence and that it is more likely than not that the person will engage in violence after ~~((his or her))~~ the person's right to possess a firearm is restored, the person petitioning for restoration of firearm rights shall bear the burden of proving by clear, cogent, and convincing evidence that ~~((he or she))~~ the person does not present a substantial danger to the safety of others.

(e) If the ~~((petitioner))~~ person seeking restoration of firearm rights seeks restoration after having been detained under RCW 71.05.150 or 71.05.153, the state shall bear the burden of proof to show, by a preponderance of the evidence, that the ~~((petitioner))~~ person does not meet the restoration criteria in (c) of this subsection.

(f) When a person's right to possess a firearm has been restored under this subsection, the court shall forward, within three judicial days after entry of the restoration order, notification that the person's right to possess a firearm has been restored to the department of licensing with a copy of the person's driver's license or identicard, or comparable identification such as ~~((their))~~ the person's name, address, and date of birth, the health care authority, and the national instant criminal background check system index, denied persons file. In the case of a person whose right to possess a firearm has been suspended for six months as provided in RCW 71.05.182, the department of licensing shall forward notification of the restoration order to the licensing authority, which, upon receipt of such notification, shall immediately lift the suspension, restoring the license.

(4) No person who has been found not guilty by reason of insanity may petition a court for restoration of the right to possess a firearm unless the person meets the requirements for the restoration of the right to possess a firearm under ~~((RCW 9.41.040(4)))~~ section 4 of this act.

NEW SECTION. Sec. 6. 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.

**CONFORMING AMENDMENTS TO CORRECT CITATIONS**

**Sec. 7.** RCW 9.41.042 and 2022 c 268 s 33 are each amended to read as follows:

RCW 9.41.040(2)(a) ~~((vii))~~ (v) shall not apply to any person under the age of eighteen years who is:

- (1) In attendance at a hunter's safety course or a firearms safety course;
- (2) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;
- (3) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;
- (4) Hunting or trapping under a valid license issued to the person under Title 77 RCW;
- (5) In an area where the discharge of a firearm is permitted, is not trespassing, and the person either: (a) Is at least fourteen years of age, has been issued a hunter safety certificate, and is using a lawful firearm other than a pistol; or (b) is under the supervision of a parent, guardian, or other adult approved for the purpose by the parent or guardian;
- (6) Traveling with any unloaded firearm in the person's possession to or from any activity described in subsection (1), (2), (3), (4), or (5) of this section;
- (7) On real property under the control of his or her parent, other relative, or legal guardian and who has the permission of the parent or legal guardian to possess a firearm;
- (8) At his or her residence and who, with the permission of his or her parent or legal guardian, possesses a firearm for the purpose of exercising the rights specified in RCW 9A.16.020(3); or
- (9) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty.

**Sec. 8.** RCW 13.40.0357 and 2022 c 268 s 37 and 2022 c 16 s 9 are each reenacted and amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE	DISPOSITION	CATEGORY FOR
OFFENSE	DESCRIPTION (RCW CITATION)	ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning (9A.48.040)	1D

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D	Reckless	Burning	2E
	(9A.48.050)		
B	Malicious	Mischief	1C
	(9A.48.070)		
C	Malicious	Mischief	2D
	(9A.48.080)		
D	Malicious	Mischief	3E
	(9A.48.090)		
E	Tampering with Fire Alarm	Apparatus	E
	(9.40.100)		
E	Tampering with Fire Alarm	Apparatus with Intent to	E
	Commit Arson	(9.40.105)	
A	Possession of Incendiary	Device	B+
	(9.40.120)		

**Assault and Other Crimes  
Involving Physical Harm**

A	Assault 1	(9A.36.011)	B+
B+	Assault 2	(9A.36.021)	C+
C+	Assault 3	(9A.36.031)	D+
D+	Assault 4	(9A.36.041)	E
B+	Drive-By	Shooting	C+
	(9A.36.045)	committed at	
	age 15 or under		
A++	Drive-By	Shooting	A
	(9A.36.045)	committed at	
	age 16 or 17		
D+	Reckless	Endangerment	E
	(9A.36.050)		
C+	Promoting Suicide	Attempt	D+
	(9A.36.060)		
D+	Coercion	(9A.36.070)	E
C+	Custodial	Assault	D+
	(9A.36.100)		

**Burglary and Trespass**

B+	Burglary 1	(9A.52.020)	C+
	committed at		
	age 15 or under		
A-	Burglary 1	(9A.52.020)	B+
	committed at		
	age 16 or 17		
B	Residential	Burglary	C
	(9A.52.025)		
B	Burglary 2	(9A.52.030)	C
D	Burglary Tools (Possession	of)	E
	(9A.52.060)		
D	Criminal	Trespass	1E
	(9A.52.070)		
E	Criminal	Trespass	2E
	(9A.52.080)		
C	Mineral	Trespass	C
	(78.44.330)		
C	Vehicle	Prowling	1D
	(9A.52.095)		
D	Vehicle	Prowling	2E
	(9A.52.100)		

**Drugs**

E	Possession/Consumption	of	E
	Alcohol	(66.44.270)	
C	Illegally Obtaining	Legend	D
	Drug	(69.41.020)	
C+	Sale, Delivery, Possession	of Legend Drug with Intent	D+
	to Sell	(69.41.030(2)(a))	
E	Possession of Legend	Drug	E
	(69.41.030(2)(b))		

- B+ Violation of UniformB+  
Controlled Substances Act -  
Narcotic, Methamphetamine,  
or Flunitrazepam Sale  
(69.50.401(2) (a) or (b))
- C Violation of UniformC  
Controlled Substances Act -  
Nonnarcotic Sale  
(69.50.401(2) (c))
- E Possession of Cannabis <40E  
grams (69.50.4014)
- C Fraudulently ObtainingC  
Controlled Substance  
(69.50.403)
- C+ Sale of ControlledC+  
Substance for Profit  
(69.50.410)
- E Unlawful InhalationE  
(9.47A.020)
- B Violation of UniformB  
Controlled Substances Act -  
Narcotic, Methamphetamine,  
or Flunitrazepam  
Counterfeit Substances  
(69.50.4011(2) (a) or (b))
- C Violation of UniformC  
Controlled Substances Act -  
Nonnarcotic Counterfeit  
Substances (69.50.4011(2)  
(c), (d), or (e))
- C Violation of UniformC  
Controlled Substances Act -  
Possession of a Controlled  
Substance (69.50.4013)
- C Violation of UniformC  
Controlled Substances Act -  
Possession of a Controlled  
Substance (69.50.4012)

**Firearms and Weapons**

- B Theft of FirearmC  
(9A.56.300)
- B Possession of StolenC  
Firearm  
(9A.56.310)
- E Carrying Loaded Pistole  
Without Permit (9.41.050)
- C Possession of Firearms byC  
Minor (<18) (9.41.040(2) (a)  
(~~(vii)~~)(v))
- D+ Possession of DangerousE  
Weapon (9.41.250)
- D Intimidating Another PersonE  
by use of Weapon (9.41.270)

**Homicide**

- A+ Murder 1 (9A.32.030) A
- A+ Murder 2 (9A.32.050) B+
- B+ Manslaughter 1 (9A.32.060) C+
- C+ Manslaughter 2 (9A.32.070) D+
- B+ Vehicular HomicideC+  
(46.61.520)

**Kidnapping**

- A Kidnap 1 (9A.40.020) B+
- B+ Kidnap 2 (9A.40.030) C+
- C+ Unlawful ImprisonmentD+  
(9A.40.040)

	<b>Obstructing Operation</b>		<b>Governmental</b>	
D	Obstructing Enforcement (9A.76.020)	a	LawE Officer	
E	Resisting (9A.76.040)		ArrestE	
B	Introducing (9A.76.140)	Contraband		1C
C	Introducing (9A.76.150)	Contraband		2D
E	Introducing (9A.76.160)	Contraband		3E
B+	Intimidating Servant (9A.76.180)	a	PublicC+	
B+	Intimidating (9A.72.110)	a	WitnessC+	
<b>Public Disturbance</b>				
C+	Criminal Weapon (9A.84.010(2)(b))	Mischief		withD+
D+	Criminal Weapon (9A.84.010(2)(a))	Mischief		WithoutE
E	Failure (9A.84.020)	to	DisperseE	
E	Disorderly (9A.84.030)		ConductE	
<b>Sex Crimes</b>				
A	Rape 1 (9A.44.040)			B+
B++	Rape 2 committed at age 14 or under		(9A.44.050)	B+
A-	Rape 2 committed at age 15 through age 17		(9A.44.050)	B+
C+	Rape 3 (9A.44.060)			D+
B++	Rape of a committed at age 14 or under	Child		1B+
A-	Rape of a committed at age 15	Child		1B+
B+	Rape of a (9A.44.076)	Child		2C+
B	Incest 1 (9A.64.020(1))			C
C	Incest 2 (9A.64.020(2))			D
D+	Indecent Exposure (9A.88.010)		(VictimE <14)	
E	Indecent Exposure (9A.88.010)		(VictimE 14 or over)	
B+	Promoting (9A.88.070)	Prostitution		1C+
C+	Promoting (9A.88.080)	Prostitution		2D+
E	O & A (9A.88.030)		(Prostitution)E	
B+	Indecent (9A.44.100)		LibertiesC+	
B++	Child committed at age 14 or under	Molestation		1B+
A-	Child committed at age 15 through age 17	Molestation		1B+
B	Child (9A.44.086)	Molestation		2C+



C Failure to Register as a  
Sex Offender (9A.44.132)

**Theft, Robbery, Extortion,  
and Forgery**

B Theft 1 (9A.56.030) C  
C Theft 2 (9A.56.040) D  
D Theft 3 (9A.56.050) E  
B Theft of Livestock 1 and 2C  
(9A.56.080 and 9A.56.083)  
C Forgery (9A.60.020) D  
A Robbery 1 (9A.56.200)B+  
committed at  
age 15 or under  
A++ Robbery 1 (9A.56.200)A  
committed at  
age 16 or 17  
B+ Robbery 2 (9A.56.210) C+  
B+ Extortion 1 (9A.56.120) C+  
C+ Extortion 2 (9A.56.130) D+  
C Identity Theft 1D  
(9.35.020(2))  
D Identity Theft 2E  
(9.35.020(3))  
D Improperly ObtainingE  
Financial Information  
(9.35.010)  
B Possession of a StolenC  
Vehicle (9A.56.068)  
B Possession of StolenC  
Property 1 (9A.56.150)  
C Possession of StolenD  
Property 2 (9A.56.160)  
D Possession of StolenE  
Property 3 (9A.56.170)  
B Taking Motor VehicleC  
Without Permission 1  
(9A.56.070)  
C Taking Motor VehicleD  
Without Permission 2  
(9A.56.075)  
B Theft of a Motor VehicleC  
(9A.56.065)

**Motor Vehicle Related  
Crimes**

E Driving Without a LicenseE  
(46.20.005)  
B+ Hit and Run - DeathC+  
(46.52.020(4)(a))  
C Hit and Run - InjuryD  
(46.52.020(4)(b))  
D Hit and Run-AttendedE  
(46.52.020(5))  
E Hit and Run-UnattendedE  
(46.52.010)  
C Vehicular AssaultD  
(46.61.522)  
C Attempting to EludeD  
Pursuing Police Vehicle  
(46.61.024)  
E Reckless DrivingE  
(46.61.500)  
D Driving While Under theE  
Influence (46.61.502 and  
46.61.504)  
B+ Felony Driving While UnderB  
the Influence  
(46.61.502(6))

- B+ Felony Physical Control ofB  
a Vehicle While Under the  
Influence (46.61.504(6))
- Other**
- B Animal Cruelty 1C  
(16.52.205)
- B Bomb Threat (9.61.160) C
- C Escape 1<sup>1</sup> (9A.76.110) C
- C Escape 2<sup>1</sup> (9A.76.120) C
- D Escape 3 (9A.76.130) E
- E Obscene, Harassing, Etc.,E  
Phone Calls (9.61.230)
- A Other Offense Equivalent toB+  
an Adult Class A Felony
- B Other Offense Equivalent toC  
an Adult Class B Felony
- C Other Offense Equivalent toD  
an Adult Class C Felony
- D Other Offense Equivalent toE  
an Adult Gross Misdemeanor
- E Other Offense Equivalent toE  
an Adult Misdemeanor
- V Violation of Order ofV  
Restitution, Community  
Supervision, or Confinement  
(13.40.200)<sup>2</sup>

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 28 days confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A  
JUVENILE OFFENDER SENTENCING GRID  
STANDARD RANGE

CURRENT OFFENSE CATEGORY	A+	129 to 260 weeks for all category A++ offenses				
	+					
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B+	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	+					
	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
	C+	LS	LS	LS	15-36 weeks	15-36 weeks
C	LS	LS	LS	LS	15-36 weeks	
D+	LS	LS	LS	LS	LS	
D	LS	LS	LS	LS	LS	

E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS	0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2)(a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

**Sec. 9.** RCW 13.40.160 and 2022 c 268 s 38 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court may impose the special sex offender disposition alternative under RCW 13.40.162.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(2)(a)(~~(vii)~~)(v) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

(11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

**Sec. 10.** RCW 13.40.193 and 2022 c 268 s 39 are each amended to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)(~~(vii)~~)(v), the court shall impose a minimum disposition of ten days of confinement. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2) (a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of

a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4) (a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

(b) For the purposes of this section, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses.

**Sec. 11.** RCW 13.40.265 and 2022 c 268 s 40 are each amended to read as follows:

(1) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(2)(a) ~~((vii))~~ (v) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense while armed with a firearm, first unlawful possession of a firearm offense, or first offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(3) If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

**Sec. 12.** RCW 70.02.230 and 2022 c 268 s 43 are each amended to read as follows:

(1) The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies may not be disclosed except as provided in this section, RCW 70.02.050, 71.05.445, 74.09.295, 70.02.210, 70.02.240, 70.02.250, 70.02.260, and 70.02.265, or pursuant to a valid authorization under RCW 70.02.030.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, including Indian health care providers, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated crisis responder;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c) (i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d) (i) To the courts, including tribal courts, as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e) (i) When a mental health professional or designated crisis responder is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional or designated crisis responder shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h) (i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i) (i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) By a care coordinator under RCW 71.05.585 or 10.77.175 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.05 or 10.77 RCW;

(l) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(m) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date

of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(n) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((~~v~~))(iii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)((~~v~~))(iii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(o) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(p) Pursuant to lawful order of a court, including a tribal court;

(q) To qualified staff members of the department, to the authority, to behavioral health administrative services organizations, to managed care organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(r) Within the mental health service agency or Indian health care provider facility where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(s) Within the department and the authority as necessary to coordinate treatment for mental illness, developmental disabilities, or substance use disorder of persons who are under the supervision of the department;

(t) Between the department of social and health services, the department of children, youth, and families, and the health care authority as necessary to coordinate treatment for mental illness, developmental disabilities, or substance use disorder of persons who are under the supervision of the department of social and health services or the department of children, youth, and families;

(u) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(v)(i) Consistent with the requirements of the federal health insurance portability and accountability act, to:

(A) A health care provider, including an Indian health care provider, who is providing care to a patient, or to whom a patient has been referred for evaluation or treatment; or

(B) Any other person who is working in a care coordinator role for a health care facility, health care provider, or Indian health care provider, or is under an agreement pursuant to the federal health insurance portability and accountability act with a health care facility or a health care provider and requires the information and records to assure coordinated care and treatment of that patient.

(ii) A person authorized to use or disclose information and records related to mental health services under this subsection (2)(v) must take appropriate steps to protect the information and records relating to mental health services.

(iii) Psychotherapy notes may not be released without authorization of the patient who is the subject of the request for release of information;

(w) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (v) of this subsection;

(x) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(y) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(z) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(aa) To all current treating providers, including Indian health care providers, of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department or the authority may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department, or the authority, if applicable, shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. Neither the department nor the authority may release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(bb)(i) To the secretary of social and health services and the director of the health care authority for either program evaluation or research, or both so long as the secretary or director, where applicable, adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary, or director, where applicable;

(cc) To any person if the conditions in RCW 70.02.205 are met;

(dd) To the secretary of health for the purposes of the maternal mortality review panel established in RCW 70.54.450; or

(ee) To a tribe or Indian health care provider to carry out the requirements of RCW 71.05.150(6).

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for a substance use disorder, the department or the authority may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services or the authority under RCW 71.05.280(3) and 71.05.320(4)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(4)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.



(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

**Sec. 13.** RCW 70.02.240 and 2022 c 268 s 44 are each amended to read as follows:

The fact of admission and all information and records related to mental health services obtained through inpatient or outpatient treatment of a minor under chapter 71.34 RCW must be kept confidential, except as authorized by this section or under RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, 70.02.260, and 70.02.265. Confidential information under this section may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, including those acting as a parent as defined in RCW 71.34.020 for purposes of family-initiated treatment, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) By a care coordinator under RCW 71.34.755 or 10.77.175 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 or 10.77 RCW;

(6) By a care coordinator under RCW 71.34.755 assigned to a person ordered to receive less restrictive alternative treatment for the purpose of sharing information to parties necessary for the implementation of proceedings under chapter 71.34 RCW;

(7) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

(8) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(9) To the secretary of social and health services and the director of the health care authority for assistance in data collection and program evaluation or research so long as the secretary or director, where applicable, adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ . . . . .";

(10) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(11) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(12) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(13) Upon the death of a minor, to the minor's next of kin;

(14) To a facility in which the minor resides or will reside;

(15) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)((+v+))(iii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)((+v+))(iii);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(16) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the director of the health care authority or the secretary of the department of social and health services, where applicable. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(17) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

(18) Pursuant to a lawful order of a court."

On page 1, line 4 of the title, after "rights;" strike the remainder of the title and insert "amending RCW 9.41.040, 9.41.047, 9.41.042, 13.40.160, 13.40.193, 13.40.265, 70.02.230, and 70.02.240; reenacting and amending RCW 9.41.010 and 13.40.0357; adding a new section to chapter 9.41 RCW; and creating a new section."

and the same is herewith transmitted.

Sarah Bannister, Secretary

### MOTION

Representative Hansen moved that the House concur with the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1562.

Representative Hansen spoke in favor of the motion.

Representative Walsh spoke against the motion.

The motion to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1562 was adopted.

### SENATE AMENDMENT TO HOUSE BILL

The House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1562 and advanced the bill, as amended by the Senate, to final passage.

Representative Thai spoke in favor of the passage of the bill.

Representative Walsh spoke against the passage of the bill.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1562, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1562, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 51; Nays, 45; Absent, 0; Excused, 2

Voting Yea: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Callan, Chandler, Chapman, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Kloba, Lekanoff, Macri, Mena, Morgan, Ormsby, Orwall, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Ryu, Santos, Senn, Simmons,

Slatter, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Walen, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Barkis, Barnard, Bronoske, Caldier, Chambers, Cheney, Christian, Connors, Corry, Couture, Dent, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Leavitt, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Paul, Robertson, Rude, Rule, Sandlin, Schmick, Schmidt, Shavers, Steele, Stokesbary, Timmons, Volz, Walsh, Waters, Wilcox and Ybarra

Excused: Representatives Ortiz-Self and Reeves

SUBSTITUTE HOUSE BILL NO. 1562, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

Monday, April 10, 2023

Mme. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1521, with the following amendment(s): 1521-S AMS KUDE S3209.4; 1521-S AMS KEIS S3231.1; 1521-S AMS MULL S3221.2

On page 3, after line 19, insert the following:

"NEW SECTION. **Sec. 4.** A new section is added to chapter 51.14 RCW to read as follows:

Nothing in this act shall be interpreted as allowing a private cause of action outside of the original jurisdiction of the department of labor and industries to assess penalties and rights to appeal as provided in this title."

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

On page 1, line 3 of the title, after "adding" strike "a new section" and insert "new sections"

On page 3, after line 19, insert the following:

"(6) For the purposes of this section, "municipal" means any counties, cities, towns, port districts, water-sewer districts, school districts, metropolitan park districts, fire districts, public hospital districts, regional fire protection service authorities, education service districts, or such other units of local government.

**Sec. 4.** RCW 51.14.080 and 1986 c 57 s 7 are each amended to read as follows:

(1) Certification of a self-insurer shall be withdrawn by the director upon one or more of the following grounds:

((1-)) (a) The employer no longer meets the requirements of a self-insurer; or

((2-)) (b) The self-insurer's deposit is insufficient; or

((3-)) (c) The self-insurer intentionally or repeatedly induces employees to fail to report injuries, induces claimants to treat injuries in the course of employment as off-the-job injuries, persuades claimants to accept less than the compensation due, or unreasonably makes it necessary for claimants to resort to proceedings against the employer to obtain compensation; or

((4-)) (d) The self-insurer habitually fails to comply with rules and regulations of the director regarding reports or other requirements necessary to carry out the purposes of this title; or

((5-)) (e) The self-insurer habitually engages in a practice of arbitrarily or unreasonably refusing employment to applicants for employment or discharging employees because of nondisabling bodily conditions; or

((6-)) (f) The self-insurer fails to pay an insolvency assessment under the procedures established pursuant to RCW 51.14.077; or

(g) For a self-insured municipal employer, the self-insurer has been found to have violated the self-insurer's duty of good faith and fair dealing three times within a three-year period. For purposes of determining whether there have been three violations within a three-year period, the director must use the date of the department's order. Any subsequent order of the department, board of industrial insurance appeals, or courts affirming a violation occurred relates back to the date of the department's order.

(2) The director may delay withdrawing the certification of the self-insured municipal employer while the employer has an enforceable contract with a licensed third-party administrator that may not be legally terminated. However, the self-insured municipal employer may not renew or extend the contract.

(3) For the purposes of this section, "municipal" has the same meaning as defined in section 3(6) of this act."

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

On page 1, line 3 of the title, after "51.48.080" strike "and 51.48.017" and insert ", 51.48.017, and 51.14.080"

On page 2, line 30, after "self-insured" insert "municipal"

On page 2, line 30, after "and" insert "their"

On page 2, line 33, after "self-insured" insert "municipal"

On page 2, line 33, after "or" insert "their"

On page 3, line 8, after "department, the" insert "municipal"

On page 3, line 8, after "or" strike "the" and insert "their"

On page 3, line 9, after "the" insert "municipal"

On page 3, line 9, after "or" insert "their"

On page 3, line 16, after "order the" insert "municipal"

and the same are herewith transmitted.

Colleen Rust, Deputy Secretary

#### MOTION

Representative Robertson moved that the House concur with the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1521.

Representative Robertson spoke in favor of the motion.

Representative Berry spoke against the motion.

Division was demanded on the motion to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1521, and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 43 - YEAS; 53 - NAYS.

#### SENATE AMENDMENT TO HOUSE BILL

The House refused to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1521 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

Tuesday, April 11, 2023

Mme. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1762, with the following amendment(s): 1762-S2 AMS ENGR S2575.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this

chapter unless the context clearly requires otherwise.

(1) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person. For purposes of this subsection, "control" means the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(2) "Aggregated data" means information that an employer has combined or collected in summary or other form such that the data cannot be identified with any individual.

(3) "Defined time period" means any unit of time measurement equal to or less than the duration of an employee's shift, and includes hours, minutes, and seconds and any fraction thereof.

(4) "Department" means the department of labor and industries.

(5) "Designated employee representative" means any employee representative, including but not limited to an authorized employee representative that has a collective bargaining relationship with the employer.

(6) "Director" means the director of the department of labor and industries or the director's designee.

(7) "Employee" means an employee who is not exempt under RCW 49.46.010(3)(c) and works at a warehouse distribution center.

(8)(a) "Employee work speed data" means information an employer collects, stores, analyzes, or interprets relating to an individual employee's performance of a quota including, but not limited to, quantities of tasks performed, quantities of items or materials handled or produced, rates or speeds of tasks performed, measurements or metrics of employee performance in relation to a quota, and time categorized as performing tasks or not performing tasks.

(b) Employee work speed data does not include qualitative performance assessments, personnel records, or itemized wage statements pursuant to department rules, except for any content of those records that includes employee work speed data as defined in this subsection.

(9)(a) "Employer" means a person who directly or indirectly, or through an agent or any other person, including through the services of a third-party employer, temporary services, or staffing agency, independent contractor, or any similar entity, at any time, employs or exercises control over the wages, hours, or working conditions of 100 or more employees at a single warehouse distribution center in the state or 500 or more employees at one or more warehouse distribution centers in the state.

(b) For the purposes of determining the number of employees employed at a single warehouse distribution center or at one or more warehouse distribution centers, all employees employed directly or indirectly, or through an agency or any other person, and all employees employed by an employer and its affiliates, must be counted.

(c) For the purposes of determining responsible employers, all agents or other

persons, and affiliates must be deemed employers and are jointly and severally responsible for compliance with this chapter.

(10) "Person" means an individual, corporation, partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

(11) "Quota" means a work performance standard, whether required or recommended, where: (a) An employee is assigned or required to perform at a specified productivity speed, or perform a quantified number of tasks, or to handle or produce a quantified amount of material, within a defined time period and under which the employee may suffer an adverse employment action if they fail to complete the performance standard; or (b) an employee's actions are categorized between time performing tasks and not performing tasks, if the employee may suffer an adverse employment action if they fail to meet the performance standard.

(12) "Warehouse distribution center" means an establishment engaged in activities as defined by any of the following North American industry classification system codes, however such establishment is denominated:

(a) 493 for warehousing and storage, but does not include 493130 for farm product warehousing and storage and 493120 for refrigerated warehousing and storage;

(b) 423 for merchant wholesalers, durable goods;

(c) 424 for merchant wholesalers, nondurable goods; or

(d) 454110 for electronic shopping and mail-order houses.

**NEW SECTION. Sec. 2.** (1) An employer must provide to each employee, upon hire, or within 30 days of the effective date of this section, a written description of:

(a) Each quota to which the employee is subject, including the quantified number of tasks to be performed or materials to be produced or handled within a defined time period;

(b) Any potential adverse employment action that could result from failure to meet each quota; and

(c) Any incentives or bonus programs associated with meeting or exceeding each quota.

(2) Whenever there is a change to the quota that results in a different quota than the most recent written description provided to the employee, the employer must: (a) Notify the employee verbally or in writing as soon as possible and before the employee is subject to the new quota; and (b) provide the employee with an updated written description of each quota to which the employee is subject within two business days of the quota change.

(3) Whenever an employer takes an adverse action against an employee in whole or in part for failure to meet a quota, the employer must provide that employee with the

applicable quota for the employee and the personal work speed data for the employee that was the basis for the adverse action.

(4) The written description must be understandable, in plain language, and in the employee's preferred language. The department may adopt rules regarding the format, plain language, and language access requirements for the written description.

**NEW SECTION. Sec. 3.** (1) The time period considered in a quota, including time designated as productive time or time on task must include:

(a) Time for rest breaks and reasonable time to travel to designated locations for rest breaks;

(b) Reasonable travel time to on-site designated meal break locations. Meal breaks are not considered time on task or productive time unless the employee is required by the employer to remain on duty on the premises or at a prescribed worksite in the interest of the employer;

(c) Time to perform any activity required by the employer in order to do the work subject to any quota;

(d) Time to use the bathroom, including reasonable travel time; and

(e) Time to take any actions necessary for the employee to exercise the employee's right to a safe and healthful workplace pursuant to chapter 49.17 RCW, including but not limited to time to access tools or safety equipment necessary to perform the employee's duties.

(2) Reasonable travel time must include consideration of the architecture and geography of the facility and the location within the facility that the employee is located at the time.

**NEW SECTION. Sec. 4.** (1) Except as provided in section 5 of this act, a quota violates this chapter if the quota:

(a) Does not provide sufficient time as required under section 3(1) (a) through (c) of this act; or

(b) Prevents the performance of any activity required by the employer for the employee to do the work subject to any quota.

(2) An employee is not required to meet a quota that violates this section.

(3) An employer may not take adverse action against an employee for failing to meet a quota that violates this section or that was not disclosed to the employee as required under section 2 of this act.

**NEW SECTION. Sec. 5.** (1) A quota violates chapter 49.17 RCW if the quota:

(a) Does not provide sufficient time as required under section 3(1) (d) and (e) of this act;

(b) Prevents the performance of any activity related to occupational safety and health required by the employer for the employee to do the work subject to any quota; or

(c) Exposes an employee to occupational safety and health hazards in violation of the requirements of chapter 49.17 RCW and the applicable rules or regulations.

(2) An employee is not required to meet a quota that violates this section.

(3) An employer may not take adverse action against an employee for failing to meet a quota that violates this section.

(4) All provisions of section 8 of this act apply to any person who complains to the employer, the director, or any local, state, or federal governmental agency or official, related to a quota alleging any violations of this section.

(5)(a) This section must be implemented and enforced, including penalties, violations, citations, and other administrative procedures, pursuant to chapter 49.17 RCW.

(b) An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time period may not use such records in any appeal to challenge the correctness of any citation and notice issued by the department.

**NEW SECTION. Sec. 6.** (1) An employer must establish, maintain, and preserve contemporaneous, true, and accurate records of the following:

(a) Each employee's own personal work speed data;

(b) The aggregated work speed data for similar employees at the same warehouse distribution center; and

(c) The written descriptions of each quota the employee was provided pursuant to section 2 of this act.

(2)(a) The required records must be maintained and preserved throughout the duration of each employee's period of employment and for the period required by this subsection.

(b) Except as required under (c) of this subsection, subsequent to an employee's separation from the employer, records relating to the six-month period prior to the date of the employee's separation from the employer must be preserved for at least three years from the date of the employee's separation.

(c) Where an employer has taken adverse action against an employee in whole or in part for failure to meet a quota, the employer must preserve the records relating to the basis for the adverse action for at least three years from the date of the adverse action.

(d) The employer must make records available to the director upon request.

(3) Nothing in this section requires an employer to collect or keep such records if the employer does not use quotas or monitor work speed data.

(4) An employer who fails to allow adequate inspection of records in an inspection by the department within a reasonable time period may not use such records in any appeal to challenge the correctness of any citation and notice issued by the department.

**NEW SECTION. Sec. 7.** (1) An employee has the right to request, at any time, a written description of each quota to which the employee is subject, a copy of the employee's own personal work speed data for

the prior six months, and a copy of the prior six months of aggregated work speed data for similar employees at the same warehouse distribution center.

(2) A former employee has the right to request, within three years subsequent to the date of their separation from the employer, a written description of the quota to which they were subject as of the date of their separation, a copy of the employee's own personal work speed data for the six months prior to their date of separation, and a copy of aggregated work speed data for similar employees at the same warehouse distribution center for the six months prior to their date of separation.

(3) An employer must provide records requested under this section at no cost to the employee or former employee.

(4) An employer must provide records requested under this section as soon as practicable and subject to the following:

(a) Requested records of written descriptions of a quota must be provided no later than two business days following the date of the receipt of the request; and

(b) Requested personal work speed data and aggregated work speed data must be provided no later than seven business days following the date of the receipt of the request.

(5) Nothing in this section requires an employer to use quotas or monitor work speed data. An employer that does not use quotas or monitor work speed data has no obligation to provide records under this section.

**NEW SECTION. Sec. 8.** (1) A person, including but not limited to an employer, his or her agent, or person acting as or on behalf of a hiring entity, or the officer or agent of any entity, business, corporation, partnership, or limited liability company, may not discharge or in any way retaliate, discriminate, or take adverse action against an employee or former employee for exercising any rights established in this chapter, or for being perceived as exercising rights established in this chapter including, but not limited to:

(a) Initiating a request for information about a quota or personal work speed data pursuant to section 7 of this act; and

(b) Making a complaint to the employer, the director, or any local, state, or federal governmental agency or official, related to a quota that is allegedly in violation of this chapter or chapter 49.17 RCW.

(2) An employee or former employee need not explicitly refer to this section or the rights established in this chapter to be protected from an adverse action. The protection provided in this section applies to former employees and to employees who mistakenly but in good faith allege violations of this chapter.

(3)(a) If a person takes adverse action against an employee or former employee within 90 days of the employee engaging or attempting to engage in activities protected by this chapter, there is a rebuttable presumption that the adverse action is a retaliatory action in violation of this section.

(b) The presumption may be rebutted by a preponderance of the evidence that: (i) The action was taken for other permissible reasons; and (ii) the engaging or attempting to engage in activities protected by this chapter was not a motivating factor in the adverse action.

(4) Except as provided for in section 5 of this act, the department must carry out and enforce the provisions of this section and section 4(3) of this act pursuant to procedures established under chapter 49.46 RCW and any applicable rules. The department may adopt new rules to implement or enforce this subsection.

**NEW SECTION. Sec. 9.** (1)(a) An employee may file a complaint with the department alleging a violation under this chapter or applicable rules, except for violations and enforcement of sections 5 and 8 of this act. The department must investigate the complaint.

(b) The department may not investigate any such alleged violation of rights that occurred more than three years before the date that the employee filed the complaint.

(c) If an employee files a timely complaint with the department, the department must investigate the complaint and issue either a citation and notice of assessment or a closure letter within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the period and specifying the duration of the extension.

(d) The department must send the citation and notice of assessment or the closure letter to both the employer and the employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(2) If the department's investigation finds that the employee's allegation cannot be substantiated, the department must issue a closure letter to the employee and the employer detailing such finding.

(3) The director may initiate an investigation without an employee's complaint to ensure compliance with this chapter.

(4) For complaints filed under this section, an employer who is found to have violated a requirement of this chapter and the rules adopted under this chapter, is subject to a civil penalty of not less than \$1,000 for each violation. Civil penalties must be collected by the department and deposited into the supplemental pension fund established under RCW 51.44.033.

(5) Except as provided under subsection (1) of this section, an employer who is found to have violated a requirement of this chapter and the rules adopted under this chapter resulting in a rest or meal period violation, must pay the employee one additional hour of pay at the employee's regular rate of pay for each day there is a violation.

(6) Upon receiving a complaint, the department may request or subpoena the records of the warehouse distribution center.

(7) For enforcement actions under this section, if any person fails to pay an assessment under this chapter, or under any rule under this chapter, after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the director may initiate collection procedures in accordance with the collection procedures under RCW 49.48.086.

**NEW SECTION. Sec. 10.** (1) For enforcement actions under section 9 of this act, a person, firm, or corporation aggrieved by a citation and notice of assessment by the department or any rules adopted under this chapter may appeal the citation and notice of assessment to the director by filing a notice of appeal with the director within 30 days of the department's issuance of the citation and notice of assessment. A citation and notice of assessment not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director under this section stays the effectiveness of the citation and notice of assessment pending final review of the appeal by the director as provided in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director must assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures must be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment must be de novo. Any party who seeks to challenge an initial order must file a petition for administrative review with the director within 30 days after service of the initial order. The director must conduct an administrative review in accordance with chapter 34.05 RCW.

(4) The director must issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An employer who fails to allow adequate inspection of records in an investigation by the department under this chapter within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any determination by the department of the penalty assessed.

**NEW SECTION. Sec. 11.** The department may adopt and implement rules to carry out and enforce the provisions of this chapter.

**NEW SECTION. Sec. 12.** 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. 13.** Sections 1 through 12 of this act constitute a new chapter in Title 49 RCW.

**NEW SECTION. Sec. 14.** This act takes effect July 1, 2024."

On page 1, line 1 of the title, after "warehouses;" strike the remainder of the title and insert "adding a new chapter to Title 49 RCW; prescribing penalties; and providing an effective date."

and the same is herewith transmitted.

Colleen Rust, Deputy Secretary

### MOTION

Representative Robertson moved that the House concur with the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1762.

Representative Robertson spoke in favor of the motion.

Representative Berry spoke against the motion.

The motion to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1762 failed.

### SENATE AMENDMENT TO HOUSE BILL

The House refused to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1762 and asked the Senate to recede therefrom.

### RECONSIDERATION

There being no objection, the House immediately reconsidered the vote by which HOUSE BILL NO. 1002, as amended by the Senate, passed the House.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1002, as amended by the Senate, on reconsideration, and the bill passed the House by the following vote: Yeas, 96; Nays, 0; Absent, 0; Excused, 2

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self and Reeves

HOUSE BILL NO. 1002, as amended by the Senate, on reconsideration, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 10:30 a.m., Friday, April 14, 2023, the 96th Day of the 2023 Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk



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