

## SIXTY EIGHTH LEGISLATURE - REGULAR SESSION

## NINETY THIRD DAY

House Chamber, Olympia, Tuesday, April 11, 2023

The House was called to order at 10:00 a.m. by the Speaker (Representative Bronoske 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, Pages Raquel Rohrer and Yuti Thakor. The Speaker (Representative Bronoske presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Josh Hall, Spokane First Assembly.

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

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

**MOTIONS**

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1846

There being no objection, SUBSTITUTE SENATE BILL NO. 5256 was moved from the House Suspension Calendar to the House Second Reading Calendar.

There being no objection, the House reverted to the sixth order of business.

**SECOND READING**

**SUBSTITUTE SENATE BILL NO. 5386, by Senate Committee on Housing (originally sponsored by Robinson, Kuderer, Saldaña and Wilson, C.)**

**Reducing administrative complexity by increasing transparency of revenue flows for activities funded by document recording fees.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was adopted. For Committee amendment, see Journal, Day 86, Tuesday, April 4, 2023.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Alvarado and Klicker spoke in favor of the passage of the bill.

**MOTION**

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

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5386, as amended by the House.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5386, as amended by the House, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1

Voting Yea: Representatives 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, 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, Volz, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Abbarno, Jacobsen, McEntire, Orcutt and Walsh

Excused: Representative Ortiz-Self

SUBSTITUTE SENATE BILL NO. 5386, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5031, by Senators Wellman, Braun, Dhingra, Hunt, Kuderer, Nguyen, Nobles and Wilson, C.**

**Concerning safety net award distributions.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. For Committee amendment, see Journal, Day 86, Tuesday, April 4, 2023.

Representative Stonier moved the adoption of amendment (602) to the committee striking amendment:

On page 3, line 38 of the striking amendment, after "fewer than" strike "3,000" and insert "2,000"

Representative Stonier spoke in favor of the adoption of the amendment to the committee striking amendment.

Representatives Low, Orcutt, Eslick, McClintock and Harris spoke against the adoption of the amendment to the committee striking amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Bronoske presiding) divided the House. The result was 53 - YEAS; 41 - NAYS.

Amendment (602) to the committee striking amendment was adopted.

Division was demanded and the demand was sustained. The Speaker (Representative Bronoske presiding) divided the House. The result was 54 - YEAS; 41 - NAYS.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representatives Rude, Orcutt and Couture spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Senate Bill No. 5031, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5031, as amended by the House, and the bill passed the House by the following vote: Yeas, 57; Nays, 40; Absent, 0; Excused, 1

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, 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, 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, Sandlin, Schmick, Schmidt, Steele, Stokesbary, Volz, Walsh, Waters, Wilcox and Ybarra

Excused: Representative Ortiz-Self

SENATE BILL NO. 5031, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5191, by Senate Committee on Law & Justice (originally sponsored by Stanford, Dozier and Gildon)**

**Reforming the real estate agency law.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Consumer Protection & Business was adopted. For Committee amendment, see Journal, Day 75, Friday, March 24, 2023.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Ryu and Corry spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5191, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5191, as amended by the House, 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

SUBSTITUTE SENATE BILL NO. 5191, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5374, by Senate Committee on Local Government, Land Use & Tribal Affairs (originally sponsored by Short, Lovelett, Shewmake and Torres)**

**Concerning the adoption of county critical area ordinances by cities.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5374.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5374, 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

SUBSTITUTE SENATE BILL NO. 5374, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SUBSTITUTE SENATE BILL NO. 5371, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Lovelett, Shewmake, Hasegawa, Hunt, Keiser, Kuderer, Nguyen, Pedersen, Randall, Robinson, Rolfes, Saldaña, Valdez, Wellman and Wilson, C.)**

**Protecting southern resident orcas from vessels.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. For Committee amendment, see Journal, Day 86, Tuesday, April 4, 2023.

With the consent of the House, amendment (673) was withdrawn.

Representative Dent moved the adoption of amendment (674) to the committee striking amendment:

Beginning on page 1, after line 2, strike all material through "years." on page 11, line 3, and insert the following:

**"NEW SECTION. Sec. 1.** (1) It is the intent of the legislature to support the recovery of endangered southern resident orcas by reducing underwater noise and disturbance from vessels, which is one of the three main threats to the population's recovery, along with availability of their preferred prey, Chinook salmon, and contaminants in their food and environment. In particular, the legislature intends to protect southern resident orcas from those boaters who intentionally harass, chase, and torment the whales.

(2) The legislature further finds that the state has a compelling interest in protecting the iconic southern resident orca from extinction by acting to implement recovery activities and adaptively managing the southern resident orca recovery effort using best available science. Studies conducted by the national oceanic and atmospheric administration have indicated that southern resident orcas significantly reduced their foraging behavior when moving vessels were observed within 1,000 yards of the whale, with females being more likely than males to reduce their foraging activities when vessels were within an average of 400 yards.

(3) In 2019, the governor's southern resident orca task force produced 49 recommendations to address the three major threats to the population's recovery. While many investments have been made and implementation is ongoing, increased and sustained efforts are needed to advance salmon recovery, address water quality and contaminants in the environment, and reduce underwater noise and physical disturbance of orcas as they attempt to forage, communicate, and rest.

(4) The legislature finds that the threats to orcas are interrelated and they are inexorably linked with salmon recovery. Salmon face a diverse array of threats throughout their life cycle including the threat posed by pinnipeds, such as seals and sea lions, which are protected under federal law, but nevertheless pose a significant threat to salmon and orca recovery through ongoing and excessive predation. Salmon also face fish passage barriers, stormwater runoff, and spills from wastewater treatment plants, among other threats. It is in the best interest of all the people of Washington, including federally recognized tribes and private landowners, to increase the population of salmon and to ensure the survivability of salmon against all threats.

(5) The legislature directed the department of fish and wildlife to produce a report on the effectiveness of regulations designed to address underwater noise and disturbance from commercial whale watching and recreational vessels. The legislature

received the first of three mandated reports in November of 2022, and it contained an assessment of the most recent science demonstrating the negative impact of vessels on southern resident orca foraging behavior and foraging success.

(6) While it takes time to see results from efforts to increase prey availability and reduce contaminants, reducing noise and disturbance from vessels can provide immediate support for the southern resident orcas by increasing their likelihood of successful foraging.

**Sec. 2.** RCW 77.15.740 and 2019 c 291 s 1 are each amended to read as follows:

(1) (~~Except~~) Beginning January 1, 2025, except as provided in subsection (2) of this section, it is unlawful for a person to:

(a) Cause a vessel or other object to approach, in any manner, within (~~three hundred~~) 1,000 yards of a southern resident orca (~~whale~~);

(b) Position a vessel to be in the path of a southern resident orca (~~whale~~) at any point located within (~~four hundred~~) 1,000 yards of the whale. This includes intercepting a southern resident orca (~~whale~~) by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within (~~four hundred~~) 1,000 yards of the whale;

(c) Position a vessel behind a southern resident orca (~~whale~~) at any point located within (~~four hundred~~) 1,000 yards;

(d) Fail to disengage the transmission of a vessel that is within (~~three hundred~~) 400 yards of a southern resident orca (~~whale~~);

(e) Cause a vessel or other object to exceed a speed greater than seven knots over ground at any point located within (~~one-half nautical mile (one thousand thirteen yards)~~) 1,000 yards of a southern resident orca (~~whale~~); or

(f) Feed a southern resident orca (~~whale~~).

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service as a vessel traffic service user established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service or captain of the port measure (~~of~~) or direction, or complying with the rules of the road or taking actions to ensure safety. This also includes (~~support vessels escorting ships in the traffic lanes~~) vessel transits departing the lanes for safety reasons or to approach or depart a dock or anchorage area, including support vessels escorting or assisting vessels, such as tug boats;

(c) Engaging in an activity, including scientific research or oil spill response, pursuant to the conditions of a permit or other authorization from the national marine fisheries service (~~and~~) or the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear. Commercial fishing vessels in transit are not exempt from subsection (1) of this section;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca ((whale)) overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft while on the surface of the water, and every description of watercraft on the water that is used or capable of being used as a means of transportation on the water. However, "vessel" does not include inner tubes, air mattresses, sailboards, and small rafts, or flotation devices or toys customarily used by swimmers.

(4) (a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW and carries a fine of five hundred dollars, not including statutory assessments added pursuant to RCW 3.62.090.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

~~((5) The enforcement actions required of the department from this section are subject to the availability of amounts appropriated for this specific purpose)) (c) The department may choose to offer educational materials in lieu of issuing an infraction, at the officer's discretion.~~

(d) An officer may not issue an infraction to the operator of a vessel that is within 400 yards of a southern resident orca who has immediately disengaged the transmission of the vessel pursuant to subsection (1)(d) of this section and waits for the whale to leave the vicinity.

(5) The department must post signs at public boat launches and marinas that provide information regarding the vessel setbacks and speed limits required by this section. However, the requirements of this section apply whether or not a sign is present and the absence of a sign is not a defense to any violation of this section.

(6) The department shall conduct outreach and education regarding regulations and best practices for recreational boating in waters inhabited by southern resident orcas, including best practices for avoiding or minimizing encounters closer than 1,000 yards from a southern resident orca consistent with the recommendations of the work group established in section 6 of this act. This may include the advancement and proliferation of tools for notifying boaters of southern resident orca presence, identifying orca ecotypes, and estimating distance on the water.

(7) If the operator of a motorized commercial whale watching vessel enters within 1,000 yards of a group of southern

resident orcas, after taking reasonable measures to determine whether the whales are southern resident orcas, and then identifies the whales as southern resident orcas, the operator must:

(a) Immediately safely reposition the vessel to be 1,000 yards or farther from the southern resident orcas; and

(b) Immediately after repositioning the vessel, report the location of the southern resident orca or orcas to the WhaleReport application for the whale report alert system, or to a successor transboundary notification system designated by the department that is adopted by the international shipping community in the Salish Sea.

(8) The operator of a motorized commercial whale watching vessel may voluntarily log the incident, including measures taken to determine whether the whales were southern resident orcas, and submit the log to the department within 24 hours of the incident.

NEW SECTION. Sec. 3. A new section is added to chapter 77.12 RCW to read as follows:

The department must coordinate with the department of licensing and the parks and recreation commission to mail information regarding the required vessel setbacks and speed limits required by RCW 77.15.740, and whale warning flags, upon issuance or renewal of a vessel registration pursuant to chapter 88.02 RCW.

NEW SECTION. Sec. 4. The department of fish and wildlife must develop a transboundary and statewide plan to implement the vessel distance regulations in RCW 77.15.740, with input from British Columbia and international whale organizations. The department of fish and wildlife must submit a report to the legislature, in accordance with RCW 43.01.036, by January 1, 2025, that includes progress on plan development and a plan for implementation.

NEW SECTION. Sec. 5. A new section is added to chapter 77.12 RCW to read as follows:

If the population of southern resident orcas reaches a threshold of 70 individuals or fewer, the department must provide a report to the legislature within one year of the threshold being met, consistent with RCW 43.01.036, that includes a study of how mandatory 1,000-yard setbacks for all vessels has been enforced and identifies gaps and solutions to support any improvements, the use of data science with respect to southern resident orca pod health, and evidence-based plans to address southern resident orca pod health.

NEW SECTION. Sec. 6. (1) The department of fish and wildlife must convene a diverse work group including, but not limited to, representatives from nongovernmental organizations, recreational boaters, the commercial whale watching industry, commercial fishers, ports and

marinas, relevant government entities, tribes, and the southern resident orca research community to inform the development of outreach and education strategies to implement RCW 77.15.740(4). A report summarizing the work of the work group and the department of fish and wildlife's outreach strategies must be included in the 2024 adaptive management report identified in RCW 77.65.620(5). The department of fish and wildlife must conduct intensive outreach and education in fiscal year 2024 and the first half of 2025 to implement the work group outreach recommendations.

(2) In coordination with the work group established in this section, the department of fish and wildlife must conduct education and outreach regarding compliance with the 1,000-yard setback from southern resident orcas established in RCW 77.15.740.

(3) The department of fish and wildlife must assess and report on the effectiveness of the mandatory 1,000-yard setback and recommendations for any further legislative action needed to protect southern resident orcas from the effects of vessels in the 2024 adaptive management report identified in RCW 77.65.620(5).

(4) This section expires June 30, 2025.

**Sec. 7.** RCW 77.65.615 and 2021 c 284 s 1 are each amended to read as follows:

(1) A commercial whale watching business license is required for commercial whale watching businesses. The annual fee for a commercial whale watching business license is ~~((two hundred dollars))~~ \$200 in addition to the annual application fee of ~~((seventy-five dollars))~~ \$70.

(2) The annual ~~((fees))~~ application for a commercial whale watching business license as described in subsection (1) of this section must ~~((include fees for))~~ list each motorized or sailing vessel ~~((or vessels as follows:~~

~~((a) One to twenty-four passengers, three hundred twenty-five dollars;~~

~~((b) Twenty-five to fifty passengers, five hundred twenty-five dollars;~~

~~((c) Fifty-one to one hundred passengers, eight hundred twenty-five dollars;~~

~~((d) One hundred one to one hundred fifty passengers, one thousand eight hundred twenty-five dollars; and~~

~~((e) One hundred fifty-one passengers or greater, two thousand dollars)) to be covered under the business license.~~

(3) The holder of a commercial whale watching business license for motorized or sailing vessels required under subsection (2) of this section may ~~((substitute the vessel designated))~~ designate an additional vessel on the license ~~((, or designate a vessel if none has previously been designated,))~~ if the license holder ~~((:~~

~~((a) Surrenders the previously issued license to the department;~~

~~((b) Submits))~~ submits to the department an application that identifies the ~~((currently designated vessel, the))~~ vessel proposed to be designated ~~((,))~~ and any other information required by the department ~~((, and~~

~~((c) Pays to the department a fee of thirty-five dollars and an application fee of one hundred five dollars)).~~

~~((4) ((Unless the business license holder owns all vessels identified on the application described in subsection (3) (b) of this section, the department may not change the vessel designation on the license more than once per calendar year.~~

~~((5))~~ A commercial whale watching operator license is required for commercial whale watching operators. A person may operate a motorized or sailing commercial whale watching vessel designated on a commercial whale watching business license only if:

(a) The person holds a commercial whale watching operator license issued by the director; and

(b) The person is designated as an operator on the underlying commercial whale watching business license.

~~((4))~~ (5) No individual may hold more than one commercial whale watching operator license. An individual who holds an operator license may be designated as an operator on an unlimited number of commercial whale watching business licenses.

~~((7))~~ (6) The annual application fee for a commercial whale watching operator license is ~~((one hundred dollars in addition to an annual application fee of seventy-five dollars))~~ \$25.

(7) A paddle tour business license is required for businesses conducting paddle tours. The annual fee for a paddle tour business license is \$200 in addition to the annual application fee of \$70.

(8) A person may conduct ~~((commercial whale watching via))~~ guided ~~((kayak))~~ paddle tours only if:

(a) The person holds a ~~((kayak))~~ paddle guide license issued by the director; and

(b) The person is designated as a ~~((kayak))~~ guide on the underlying ~~((commercial whale watching))~~ paddle tour business license.

(9) No individual may hold more than one ~~((kayak))~~ paddle guide license. An individual who holds a ~~((kayak))~~ paddle guide license may be designated on an unlimited number of ~~((commercial whale watching))~~ paddle tour business licenses.

(10) The annual application fee for a ~~((kayak))~~ paddle guide license is \$25 ~~((in addition to an annual application fee of \$25)).~~

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

(a) "Commercial whale watching" means the act of taking, or offering to take, passengers aboard a motorized or sailing vessel ~~((or guided kayak tour in order))~~ to view marine mammals in their natural habitat for a fee.

(b) "Commercial whale watching business" means a business that engages in the activity of commercial whale watching.

(c) "Commercial whale watching business license" means a department-issued license to operate a commercial whale watching business.

(d) "Commercial whale watching license" means a commercial whale watching business license ~~((,))~~ or a commercial whale watching operator license ~~((, or a kayak guide license))~~ as defined in this section.

(e) "Commercial whale watching operator" means a person who operates a motorized or sailing vessel engaged in the business of whale watching.

(f) "Commercial whale watching operator license" means a department-issued license to operate a commercial motorized or sailing vessel on behalf of a commercial whale watching business.

(g) "Commercial whale watching vessel" means any vessel that is being used as a means of transportation for individuals to engage in commercial whale watching.

(h) "~~((Kayak))~~ Paddle guide" means a person who conducts guided ~~((kayak))~~ tours on behalf of a ~~((commercial whale watching))~~ paddle tour business.

(i) "~~((Kayak))~~ Paddle guide license" means a department-issued license to conduct commercial guided ~~((kayak))~~ paddle tours on behalf of a ~~((commercial whale watching))~~ paddle tour business.

(j) "Paddle tour business" means a business that conducts paddle tours.

(k) "Paddle tour" means the act of guiding or offering to take people aboard nonmotorized or human-powered vessels, such as kayaks or paddle boards, on a trip, tour, or guided lesson that involves viewing marine mammals in their natural habitat for a fee.

(12) The residency and business requirements of RCW 77.65.040 (2) and (3) do not apply to Canadian individuals or corporations applying for and holding Washington commercial whale watching licenses defined in this section.

(13) The license and application fees in this section ~~((are waived for calendar years 2021 and 2022))~~ may be waived for organizations whose relevant commercial whale watching or marine paddle tour activities are solely for bona fide nonprofit educational purposes.

**Sec. 8.** RCW 77.15.815 and 2019 c 291 s 4 are each amended to read as follows:

(1) This section applies only to persons and activities defined in RCW 77.65.615, including commercial whale watching and paddle tours.

(2) A person is guilty of unlawfully engaging in commercial whale watching in the second degree if the person conducts commercial whale watching activities and:

(a) Does not have and possess all licenses and permits required under this title; or

(b) Violates any department rule regarding ~~((the operation of a))~~ commercial whale watching ~~((vessel near a southern resident orca whale)).~~

~~((2))~~ (3) A person is guilty of engaging in commercial whale watching in the first degree if the person commits the act described in subsection ~~((1))~~ (2) of this section and the violation occurs within ~~((one year of the date of a prior conviction under this section))~~ five years of any of the following:

(a) The date of a prior conviction under this section;

(b) The date of a finding of guilt or plea of guilty pursuant to an amended information, criminal complaint or citation,

or infraction for any violation that was originally charged as a violation of this section, regardless of whether the imposition of the sentence is deferred or the penalty is suspended; or

(c) The date of any disposition of a case arising from an act originally charged as a violation of this section, whereby the offender enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms or conditions.

~~((3))~~ (4) (a) Unlawful commercial whale watching in the second degree is a misdemeanor.

(b) Unlawful commercial whale watching in the first degree is a gross misdemeanor. ~~((Upon conviction))~~ In addition to the appropriate criminal penalties, the director shall ~~((deny applications submitted by the person for a commercial whale watching license or alternate operator license for two years from the date of conviction))~~ revoke any operator license, business license, or both, and order a suspension of the person's privilege to engage in commercial whale watching for two years.

(5) A person is guilty of unlawfully engaging in a paddle tour in the second degree if the person conducts paddle tour activities and:

(a) Does not have and possess all licenses and permits required under this title; or

(b) Violates any department rule regarding the operation of paddle tours in marine waters.

(6) A person is guilty of unlawfully engaging in a paddle tour in the first degree if the person commits an act described in subsection (5) of this section and the violation occurs within five years of the date of any of the following:

(a) The date of a prior conviction under this section;

(b) The date of a finding of guilt or plea of guilty pursuant to an amended information, criminal complaint or citation, or infraction for any violation that was originally charged as a violation of this section, regardless of whether the imposition of sentence is deferred or the penalty is suspended; or

(c) The date of any disposition of a case arising from an act originally charged as a violation of this section, whereby the offender enters into a disposition that continues or defers the case for dismissal upon the successful completion of specific terms and conditions.

(7) (a) Unlawful engagement in a paddle tour in the second degree is a misdemeanor.

(b) Unlawful engagement in a paddle tour in the first degree is a gross misdemeanor. In addition to appropriate criminal penalties, the director shall revoke any paddle guide license, business license, or both, and order a suspension of the person's privilege to conduct paddle tours in marine waters for two years.

**NEW SECTION. Sec. 9.** Section 2 of this act takes effect January 1, 2025."

Correct the title.

Representatives Dent and Lekanoff spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (674) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Lekanoff, Dent, Graham and Wilcox spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5371, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5371, as amended by the House, and the bill passed the House by the following vote: Yeas, 95; Nays, 2; 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, 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, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Orcutt and Schmick  
Excused: Representative Ortiz-Self

ENGROSSED SUBSTITUTE SENATE BILL NO. 5371, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5263, by Senate Committee on Ways & Means (originally sponsored by Salomon, Rivers, Saldaña, Nobles, Lovick, Lovelett, Hunt, Hasegawa, Mullet, Trudeau, Robinson, Pedersen, Wellman, Muzzall, Wilson, C., Kuderer, Keiser, Liias, Van De Wege, Billig, Conway and Frame)**

**Concerning access to psilocybin services by individuals 21 years of age and older.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Health Care & Wellness was adopted. For Committee amendment, see Journal, Day 80, Wednesday, March 29, 2023.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Macri, Schmick, Couture, Riccelli and Orcutt spoke in favor of the passage of the bill.

Representatives Dye and Harris spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5263, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5263, as amended by the House, and the bill passed the House by the following vote: Yeas, 87; Nays, 10; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, 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, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Barnard, Caldier, Christian, Connors, Dye, Goehner, Harris, Schmidt, Steele and Timmons  
Excused: Representative Ortiz-Self

SECOND SUBSTITUTE SENATE BILL NO. 5263, as amended by the House, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Second Substitute Senate Bill No. 5263.

Representative McClintock, 18th District

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Second Substitute Senate Bill No. 5263.

Representative Mosbrucker, 14th District

### SECOND READING

**SENATE BILL NO. 5104, by Senators Salomon, Rolfes, Liias, Nobles, Pedersen and Stanford**

**Surveying Puget Sound marine shoreline habitat.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Appropriations was before the House for purpose of amendment. For Committee amendment, see Journal, Day 86, Tuesday, April 4, 2023.

With the consent of the House, amendments (665) and (667) were withdrawn.

Representative Couture moved the adoption of amendment (668) to the committee striking amendment:

On page 2, after line 10 of the striking amendment, insert the following:

**"NEW SECTION. Sec. 3.** A new section is added to chapter 43.21A to read as follows:

The department shall maintain a record of all civil or criminal investigations or enforcement actions in which the department is a participant that utilize georeferenced imagery or surveys produced pursuant to section 2 of this act.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.300 to read as follows:

The department shall maintain a record of all civil or criminal investigations or enforcement actions in which the department is a participant that utilize georeferenced imagery or surveys produced pursuant to section 2 of this act."

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

Representatives Couture and Doglio spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (668) to the committee striking amendment was adopted.

The committee striking amendment, as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Doglio, Couture and Dye spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Senate Bill No. 5104, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5104, as amended by the House, 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

SENATE BILL NO. 5104, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5353, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Wagoner, Van De Wege, Dozier, Salomon, Short, Warnick and Wilson, J.)**

#### Concerning the voluntary stewardship program.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5353.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5353, and the bill passed the House by the following vote: Yeas, 94; Nays, 3; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, 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: Representatives Bronoske, Fey and Leavitt

Excused: Representative Ortiz-Self

SUBSTITUTE SENATE BILL NO. 5353, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5256, by Senate Committee on Human Services (originally sponsored by Saldaña, Wilson, C., Frame, Hasegawa, Hunt, Kuderer, Lovelett, Lovick, Nguyen, Nobles, Robinson, Valdez and Wellman)**

#### Making permanent and expanding the child welfare housing assistance program.

The bill was read the second time.

With the consent of the House, amendment (590) was withdrawn.

Representative Senn moved the adoption of amendment (672):

On page 3, beginning on line 18, beginning with "~~((+))~~" strike all material through "~~purpose-~~" on line 20 and insert "(8) The child welfare housing assistance (~~pilot~~) program established in this section is subject to the availability of funds appropriated for this purpose.

(("

Representatives Senn and Eslick spoke in favor of the adoption of the amendment.

Amendment (672) was adopted.

Representative Walsh moved the adoption of the striking amendment (603):

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 74.13.802 and 2022 c 297 s 965 are each amended to read as follows:

(1) Beginning July 1, 2020, the department shall establish a child welfare housing assistance pilot program, which provides housing vouchers, rental assistance, navigation, and other support services to eligible families.



(a) The department shall operate or contract for the operation of the child welfare housing assistance pilot program under subsection (3) of this section in one county west of the crest of the Cascade mountain range and one county east of the crest of the Cascade mountain range.

(b) The child welfare housing assistance pilot program is intended to shorten the time that children remain in out-of-home care.

(2) A parent with a child who is dependent pursuant to chapter 13.34 RCW and whose primary remaining barrier to reunification is the lack of appropriate housing is eligible for the child welfare housing assistance pilot program.

(3) The department shall contract with an outside entity or entities to operate the child welfare housing assistance pilot program. If no outside entity or entities are available to operate the program or specific parts of the program, the department may operate the program or the specific parts that are not operated by an outside entity.

(4) Families may be referred to the child welfare housing assistance pilot program by a caseworker, an attorney, a guardian ad litem as defined in chapter 13.34 RCW, a parent ally as defined in RCW 2.70.060, an office of public defense social worker, or the court.

(5) The department shall consult with a stakeholder group that must include, but is not limited to, the following:

- (a) Parent allies;
- (b) Parent attorneys and social workers managed by the office of public defense parent representation program;
- (c) The department of commerce;
- (d) Housing experts;
- (e) Community-based organizations;
- (f) Advocates; and
- (g) Behavioral health providers.

(6) The stakeholder group established in subsection (5) of this section shall begin meeting after July 28, 2019, and assist the department in design of the child welfare housing assistance pilot program in areas including, but not limited to:

- (a) Equitable racial, geographic, ethnic, and gender distribution of program support;
- (b) Eligibility criteria;
- (c) Creating a definition of homeless for purposes of eligibility for the program; and
- (d) Options for program design that include outside entities operating the entire program or specific parts of the program.

(7) By ~~((December))~~ November 1, ~~((2021))~~ 2024, the department shall report outcomes for the child welfare housing assistance pilot program to the ~~((oversight board for children, youth, and families established pursuant to RCW 43.216.015. The))~~ legislature. At a minimum, the report must include ~~((racial, geographic, ethnic, and gender distribution of program support))~~:

(a) The number of families anticipated to be served by the expansion of the program provided in section 2, chapter . . . , Laws of 2023 (section 2 of this act); and

(b) The estimated cost savings provided through expansion of the program provided in

section 2, chapter . . . , Laws of 2023 (section 2 of this act).

(8) The child welfare housing assistance pilot program established in this section is subject to the availability of funds appropriated for this purpose.

~~((9) This section expires June 30, 2023.))~~

**Sec. 2.** RCW 74.13.802 and 2023 c . . . s 1 (section 1 of this act) are each amended to read as follows:

(1) ((Beginning July 1, 2020)) Within funds appropriated for this specific purpose, the department shall ((establish)) administer a child welfare housing assistance ((pilot)) program, which provides housing vouchers, rental assistance, navigation, and other support services to eligible families.

(a) The department shall operate or contract for the operation of the child welfare housing assistance ~~((pilot))~~ program under subsection (3) of this section in one ~~((county))~~ or more counties west of the crest of the Cascade mountain range and one ~~((county))~~ or more counties east of the crest of the Cascade mountain range.

(b) The child welfare housing assistance ~~((pilot))~~ program is intended to reduce the need for foster care placement and to shorten the time that children remain in out-of-home care when placement is necessary.

~~((2) (A parent with a child who is dependent pursuant to chapter 13.34 RCW and whose primary remaining barrier to reunification is the lack of appropriate housing is eligible for the child welfare housing assistance pilot program.))~~ The following families are eligible for assistance from the child welfare housing assistance program:

(a) A parent with a child who is dependent pursuant to chapter 13.34 RCW and a lack of appropriate housing is a remaining barrier to reunification; and

(b) A parent of a child who is a candidate for foster care as defined in RCW 26.44.020 and whose housing instability is a barrier to the child remaining in the home.

(3) The department shall contract with an outside entity or entities, who must have a demonstrated understanding of the importance of stable housing for children and families involved or at risk of being involved with the child welfare system, to operate the child welfare housing assistance ~~((pilot))~~ program. If no outside entity or entities are available to operate the program or specific parts of the program, the department may operate the program or the specific parts that are not operated by an outside entity.

(4) Families may be referred to the child welfare housing assistance ~~((pilot))~~ program by a department caseworker, an attorney, a guardian ad litem as defined in chapter 13.34 RCW, a parent ally as defined in RCW 2.70.060, an office of public defense social worker, or the court.

(5) The department shall consult with a stakeholder group that must include, but is not limited to, the following:

- (a) Parent allies;

(b) Parent attorneys and social workers managed by the office of public defense parent representation program;

- (c) The department of commerce;
- (d) Housing experts;
- (e) Community-based organizations;
- (f) Advocates; and
- (g) Behavioral health providers.

(6) The stakeholder group established in subsection (5) of this section shall begin meeting after July 28, 2019, and assist the department in design of the child welfare housing assistance (~~(pilot)~~) program in areas including, but not limited to:

- (a) Equitable racial, geographic, ethnic, and gender distribution of program support;
- (b) Eligibility criteria;
- (c) Creating a definition of homeless for purposes of eligibility for the program; and
- (d) Options for program design that include outside entities operating the entire program or specific parts of the program.

(7) ~~((By))~~ Beginning November 1, 2024, the department shall annually report outcomes for the child welfare housing assistance pilot program to the legislature. At a minimum, when available, the report must include the following information:

(a) ~~((The number of families anticipated to be served by the expansion of the program provided in section 2, chapter . . ., Laws of 2023 (section 2 of this act))~~ Distribution of the child welfare housing assistance program by race, geography, ethnicity, and gender including a discussion of whether this distribution was equitable; and

(b) ~~((The estimated cost savings provided through expansion of the program provided in section 2, chapter . . ., Laws of 2023 (section 2 of this act))~~ Any recommendations for legislative changes to the child welfare housing assistance program.

~~((§) The child welfare housing assistance pilot program established in this section is subject to the availability of funds appropriated for this purpose.))~~

NEW SECTION. Sec. 3. Section 1 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.

NEW SECTION. Sec. 4. Section 2 of this act takes effect July 1, 2025."

Correct the title.

Representative Walsh spoke in favor of the adoption of the striking amendment.

Representative Senn spoke against the adoption of the striking amendment.

The striking amendment (603) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Rule and Eslick spoke in favor of the passage of the bill.

Representative Walsh spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5256, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5256, as amended by the House, and the bill passed the House by the following vote: Yeas, 94; Nays, 3; 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, 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, 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 Graham, McEntire and Walsh  
Excused: Representative Ortiz-Self

SUBSTITUTE SENATE BILL NO. 5256, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the fourth order of business.

### INTRODUCTION & FIRST READING

HB 1855 by Representatives Riccelli, Bateman and Macri

AN ACT Relating to preserving coverage of preventative services without cost sharing; and amending RCW 48.43.047.

Referred to Committee on Health Care & Wellness.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business was referred to the committee so designated.

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

### SECOND READING

HOUSE BILL NO. 1846, by Representatives Fey, Barkis, Lekanoff, Ramel, Hutchins, Tharinger and Caldier

Addressing vessel procurement at the Washington state ferries.

The bill was read the second time.

Representative Fey moved the adoption of the striking amendment (693):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Washington's marine highways provide vital transportation links between communities. Citizens, businesses, and visitors depend on the state's ferry system to provide safe, dependable auto and passenger service in

order to conduct daily life and commerce activities. To maintain the integrity of this vital transportation link and to preserve the everyday conduct of individual and commercial activities, the state must act immediately to procure new hybrid-electric vessels in a timely and efficient manner.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.60 RCW to read as follows:

(1)(a) The department shall contract for the acquisition of up to five new hybrid diesel-electric ferry vessels that can carry up to 144 vehicles, using a one or two contract procurement approach to potentially accelerate vessel delivery.

(b) The Washington state ferries shall make available the design for the 144 vehicle hybrid electric Olympic class vessel to potential bidders. Incentives may be awarded by the department to bidders who offer design modifications that:

(i) Lower the minimum number of crew needed to staff the vessel in accordance with United States coast guard requirements;

(ii) Incorporate materials, technologies, or other features that lower life-cycle maintenance and operations costs;

(iii) Accelerate the proposed delivery schedule; or

(iv) Make other improvements determined to be beneficial by the department. The Washington state ferries may allow for exceptions of the 144 vehicle capacity of the vessel design in cases where efficiencies outlined in (b)(i) or (ii) of this subsection are met.

(2)(a) The contract or contracts must be for a minimum of two vessels, with options for up to five vessels in total, and are exempt from the requirements set forth in RCW 47.60.810 through 47.60.824.

(b) The contract or contracts may employ the following procurement methods:

(i) Design-build procedure as authorized under chapter 39.10 RCW;

(ii) Design-bid-build as authorized under chapter 39.04 RCW or an equivalent process allowed in statute as determined by the department; or

(iii) Lease with an option to buy in accordance with RCW 47.60.010. The terms of any plan to pursue a lease with an option to buy agreement must be approved by the governor and appropriate committees of the legislature and are subject to the availability of amounts appropriated for this specific purpose.

(c) To the extent possible, the department shall establish and apply evaluation criteria beyond low price to meet best value objectives.

(d) The department must award a credit of 13 percent of the bid price for bid proposals for vessels constructed in the state of Washington, which must be adjusted to reflect the proportion of the construction of the vessels that occurs within the state. This credit represents the:

(i) Amount of economic and revenue loss to the state of Washington from constructing vessels outside the state of Washington, as

indicated by the Washington institute for public policy study regarding Washington state ferry vessel procurement dated December 2016; and

(ii) Additional costs of transport, potential delay, and owner oversight incurred for construction at shipyards located outside the state of Washington.

(e) The department must require that contractors meet the requirements of RCW 39.04.320 regarding apprenticeships or other state law or federal law equivalents, where such equivalents exist.

(f) The department must require that contractors meet the requirements of chapter 90.48 RCW regarding water pollution control or other state law or federal law equivalents, where such equivalents exist.

(3) For contracts eligible for the use of federal funds, contractors must comply with federal disadvantaged business enterprise targets as outlined by the federal agency awarding funds.

(4) Contractors located in the state of Washington must meet the requirements of RCW 47.60.835, the small business enterprise enforceable goals program.

(5) The department shall employ third-party experts that report to the Washington state ferries to serve as a supplementary resource. The third-party experts contracted by the Washington state ferries shall:

(a) Perform project quality oversight and report to the transportation committees of the legislature and the office of financial management on a semiannual basis on project schedule, risks, and project budget;

(b) Assist with the management of change order requests;

(c) Advise on contract and technical matters; and

(d) Possess knowledge of and experience with inland waterways, Puget Sound vessel operations, the propulsion system of the new vessels, and Washington state ferries operations.

**Sec. 3.** RCW 47.60.810 and 2019 c 431 s 1 are each amended to read as follows:

(1) ~~((The))~~ Except as otherwise provided in section 2 of this act, the department shall use a modified request for proposals process when purchasing new auto ferries, except for new 144-auto ferries purchased through an option on a contract executed before July 6, 2015, whereby the prevailing shipbuilder and the department engage in a design and build partnership for the design and construction of the auto ferries. The process consists of the three phases described in subsection (3) of this section.

(2) Throughout the three phases described in subsection (3) of this section, the department shall employ an independent owner's representative to serve as a third-party intermediary between the department and the proposers, and subsequently the successful proposer. However, this representative shall serve only during the development and construction of the first vessel constructed as part of a new class of vessels developed after July 6, 2015. The independent owner's representative shall:

(a) Serve as the department's primary advocate and communicator with the proposers and successful proposer;

(b) Perform project quality oversight;

(c) Manage any change order requests;

(d) Ensure that the contract is adhered to and the department's best interests are considered in all decisions; and

(e) Possess knowledge of and experience with inland waterways, Puget Sound vessel operations, the propulsion system of the new vessels, and Washington state ferries operations.

(3) The definitions in this subsection apply throughout RCW 47.60.812 through 47.60.822.

(a) "Phase one" means the evaluation and selection of proposers to participate in development of technical proposals in phase two.

(b) "Phase two" means the preparation of technical proposals by the selected proposers in consultation with the department.

(c) "Phase three" means the submittal and evaluation of bids, the award of the contract to the successful proposer, and the design and construction of the auto ferries.

(4) The department may modify an existing option contract executed prior to July 6, 2015, to allow for the purchase of up to five additional 144-auto ferries, for a total of nine 144-auto ferries. The department must execute a new modification to an existing option contract for each of the additional five ferries.

**Sec. 4.** RCW 47.60.835 and 2019 c 431 s 2 are each amended to read as follows:

(1) ~~((To increase small business participation in ferry vessel procurement))~~ In the absence of federal funding and the applicability of the disadvantaged business enterprise program, to increase race and gender-neutral participation of small and diverse businesses in ferry procurement, the Washington state department of transportation's office of equal opportunity and civil rights shall develop and monitor a state small business enterprise enforceable goals program. Pursuant to this program, the office shall establish contract goals for ferry vessel procurement. The contract goal is defined as a percentage of the contract award amount that the prime contractor must meet by subcontracting with small business enterprises. The enforceable goal for all ferry vessel procurement contracts will be set by the office. Prime contractors unable to meet the enforceable ((goal))goals must submit evidence of good faith efforts to meet the contract ((goal))goals to the small business enterprise enforceable goals program. The department, in collaboration with the office of equal opportunities and civil rights will develop contractual remedies should the contractor not make good faith efforts.

(2) Small business enterprises intending to benefit from the small business enterprise enforceable goals program established in subsection (1) of this section must meet the definition of "small business" in RCW 39.26.010 and must be

certified as a "small business enterprise" by the Washington state office of minority and women's business enterprises. Prime contractors will enter all subcontractor payments into the office's diversity management and compliance system. The office of equal opportunity and civil rights shall monitor program performance.

**Sec. 5.** RCW 47.60.010 and 2015 3rd sp.s. c 14 s 2 are each amended to read as follows:

The department is authorized to acquire by lease, charter, contract, purchase, condemnation, or construction, and partly by any or all of such means, and to thereafter operate, improve, and extend, a system of ferries on and crossing Puget Sound and any of its tributary waters and connections thereof, and connecting with the public streets and highways in the state. However, any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810, except as otherwise provided in section 2 of this act. The system of ferries shall include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances as shall be determined by the department to be necessary or desirable for efficient operation of the ferry system and best serve the public. Subject to RCW 47.56.820, the department may in like manner acquire by purchase, condemnation, or construction and include in the ferry system such toll bridges, approaches, and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. In addition to the powers of acquisition granted by this section, the department is empowered to enter into any contracts, agreements, or leases with any person, firm, or corporation and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not.

The authority of the department to sell and lease back any state ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec. 168(f)(8) is confirmed. Legal title and all incidents of legal title to any ferry sold and leased back (except for the federal tax benefits attributable to the ownership thereof) shall remain in the state of Washington.

**Sec. 6.** RCW 47.56.030 and 2015 3rd sp.s. c 14 s 7 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department

shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(f) Any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810, except as otherwise provided in section 2 of this act.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking

into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life-cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life-cycle cost analysis that includes an evaluation of fuel efficiency. When a life-cycle cost analysis is used, the life-cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

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."

Correct the title.

Representatives Fey and Barkis spoke in favor of the adoption of the striking amendment.

The striking amendment (693) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Fey and Barkis spoke in favor of the passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1846.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1846, and the bill passed the House by the following vote: Yeas, 93; Nays, 4; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Calder, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Connors, Corry, Cortes, Couture, Davis, Dent, 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, McEntire, Mena, Morgan, Mosbrucker, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmic, 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: Representatives Christian, Graham, Jacobsen and Orcutt

Excused: Representative Ortiz-Self

ENGROSSED HOUSE BILL NO. 1846, having received the necessary constitutional majority, was declared passed.

With the consent of the House, ENGROSSED HOUSE BILL NO. 1846 was immediately transmitted to the Senate.

### SECOND READING

**SUBSTITUTE SENATE BILL NO. 5182, by Senate Committee on State Government & Elections (originally sponsored by Nguyen, Hunt, Boehnke, Keiser, MacEwen, Nobles, Shewmake, Trudeau, Wilson, C. and Wilson, J.)**

#### Concerning procedures and deadlines for candidate filing.

The bill was read the second time.

Representative Goehner moved the adoption of amendment (604):

On page 1, at the beginning of line 9, insert "(1)"

On page 1, at the beginning of line 15, strike "(1)" and insert "((+1)) (a)"

On page 1, at the beginning of line 18, strike "(2)" and insert "((+2)) (b)"

On page 1, after line 21, insert the following:

"(2) Candidates shall file their declaration electronically using a system described in RCW 29A.24.040 or by mail pursuant to RCW 29A.24.081. However, between the hours of 4:00 p.m. and 5:00 p.m. on the last day to file declarations of candidacy, candidates may not file their declaration electronically and may instead file in

person at their county auditor's office if they were unable to submit a declaration online and provide an attestation that they were unable to submit a declaration online prior to 4:00 p.m. on the last day of candidate filing. County auditors who receive in person declarations of candidacy pursuant to this subsection shall transmit the declaration and filing fee to the appropriate filing officer in accordance with RCW 29A.24.070.

(3)"

On page 2, line 11, after "through" strike "((4:00)) 5:00" and insert "4:00"

Representative Goehner spoke in favor of the adoption of the amendment.

Representative Ramos spoke against the adoption of the amendment.

Amendment (604) was not adopted.

Representative Christian moved the adoption of amendment (557):

On page 2, line 20, after "court" insert "The secretary of state shall establish contingency plans, consistent with this subsection, to support candidate filing for state legislative candidates who have not yet filed their declaration of candidacy in the case that a localized or system-wide internet outage or a disruption to the secretary of state's candidate filing website occurs during the two hours immediately preceding the filing deadline. The secretary of state shall immediately process all filings received pursuant to the contingency plan"

Representatives Christian and Ramos spoke in favor of the adoption of the amendment.

Amendment (557) was adopted.

Representative Stokesbary moved the adoption of amendment (594):

On page 6, line 27, after "29A.24.050." insert "The rule adopted by the secretary must provide a process and deadline for a candidate to amend their candidate statement for the general election voters' pamphlet when, after the primary election, the name of a write-in candidate will appear on the general election ballot for that office."

On page 7, line 17, after "RCW 29A.24.050;" insert "and

The process and deadline for a candidate to amend their candidate statement for the general election voters' pamphlet when, after the primary election, the name of a write-in candidate will appear on the general election ballot for that office;"

On page 7, after line 19, insert the following:

"**Sec. 11.** RCW 29A.24.311 and 2018 c 187 s 2 are each amended to read as follows:

(1) Any person who desires to be a write-in candidate shall file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than 8:00 p.m. on the day of the primary or election. A write-in

declaration of candidacy is timely if filed by this deadline. No votes shall be counted for a write-in candidate who has not properly filed a write-in declaration of candidacy.

(2) Votes cast for write-in candidates who have filed such declarations of candidacy need only specify the name of the candidate in the appropriate location on the ballot in order to be counted.

(3) No person may file as a write-in candidate where:

(a) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name was printed on the ballot for the same office at the preceding primary;

(b) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election;

(c) The name of the person attempting to file is already printed on the ballot as a candidate for another office, unless the other office is precinct committee officer or a temporary elected position, such as charter review board member or freeholder;

(d) The office filed for is precinct committee officer.

(4) The declaration of candidacy shall be similar to that required by RCW 29A.24.031. No write-in candidate filing under this section may be included in any voters' pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voters' pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets. If the name of a write-in candidate will appear on the general election ballot a current candidate for that same office may amend their candidate statement for inclusion in the general election voters' pamphlet in accordance with rules adopted under section 9 of this act or RCW 29A.32.230."

Correct the title.

Representatives Stokesbary, Corry, Stokesbary (again), Wilcox and Harris spoke in favor of the adoption of the amendment.

Representative Stearns spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Bronoske presiding) divided the House. The result was 42 - YEAS; 51 - NAYS.

Amendment (594) was not adopted.

Representative Corry moved the adoption of amendment (621):

On page 7, after line 19, insert the following:

"**Sec. 11.** RCW 29A.24.075 and 2013 c 11 s 25 are each amended to read as follows:

(1) A person filing a declaration of candidacy for an office shall, at the time of filing, be a registered voter and possess

the qualifications specified by law for persons who may be elected to the office.

(2) Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, no person may file for more than one office.

(3) The name of a candidate for an office (~~shall~~) may not appear on a ballot for that office unless, except for judge of the superior court and as provided in RCW 3.50.057, the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office (~~shall~~) may not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in that district or division. The officer with whom declarations of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(4) The filing officer may not submit the name of a candidate for an office for inclusion on the ballot if, pursuant to this section, at the time that the candidate's declaration of candidacy is filed, the candidate is not properly registered to vote in the geographic area represented by the office or does not possess the qualifications specified by law for persons who may be elected to the office. If the filing officer finds that the candidate is unqualified to hold the office:

(a) In a case in which a primary must be conducted for the office and has already occurred:

(i) If ballots for the general election for the office have not been ordered by the county auditor, the candidate who received the third greatest number of votes for the office at the primary shall qualify as a candidate for general election and that candidate's name shall be printed on the ballot for the office in lieu of the name of the disqualified candidate.

(ii) If general election ballots for the office have been so ordered, votes cast for the disqualified candidate at the general election for the office may not be counted for that office.

(b) In a case in which a primary must be conducted for the office but has not yet occurred:

(i) If ballots for the primary election for the office have not been ordered by the county auditor, the name of the disqualified candidate may not appear on the primary election ballot for the office.

(ii) If primary election ballots for the office have been so ordered, votes cast for the disqualified candidate at the primary election for the office may not be counted for that office.

(c) In a case in which a primary is not conducted for the office:

(i) If ballots for the general election for the office have not been ordered by the county auditor, the name of the disqualified candidate may not appear on the general election ballot for the office.

(ii) If general election ballots for the office have been so ordered, votes cast for the disqualified candidate at the general election for the office may not be counted for that office.

(d) If the disqualified candidate is the only candidate to have filed for the office during a regular or special filing period for the office, a void in candidacy for the office exists.

(5) The requirements of voter registration and residence within the geographic area of a district do not apply to candidates for congressional office. Qualifications for the United States congress are specified in the United States Constitution.

**Sec. 12.** RCW 29A.36.101 and 2013 c 11 s 41 are each amended to read as follows:

Except as provided in RCW 29A.24.075, for the candidates for president and vice president, or for a partisan or nonpartisan office for which no primary is required, the names of all candidates who, under this title, filed a declaration of candidacy must appear on the appropriate ballot at the primary throughout the jurisdiction for which they filed."

Correct the title.

Representatives Corry, Stokesbary, Hutchins and Harris spoke in favor of the adoption of the amendment.

Representative Ramos spoke against the adoption of the amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Bronoske presiding) divided the House. The result was 40 - YEAS; 51 - NAYS.

Amendment (621) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

Representative Christian spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5182, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5182, as amended by the House, and the bill passed the House by the following vote: Yeas, 61; Nays, 36; Absent, 0; Excused, 1

Voting Yea: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chambers, Chapman, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Hackney, Hansen, Kloba, Leavitt, Lekanoff, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Rule, Ryu, Santos, Senn, Shavers, Simmons, Slatter,

Springer, Stearns, Steele, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Barkis, Barnard, Calder, Chandler, Cheney, Christian, Connors, Corry, Couture, Dent, Dye, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Sandlin, Schmick, Schmidt, Stokesbary, Volz, Walsh, Waters, Wilcox and Ybarra

Excused: Representative Ortiz-Self

SUBSTITUTE SENATE BILL NO. 5182, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5457, by Senators Short, Lovelett, Kuderer and Shewmake**

**Implementing growth management task force legislative recommendations regarding small cities.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Senate Bill No. 5457.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5457, 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

SENATE BILL NO. 5457, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5425, by Senate Committee on Ways & Means (originally sponsored by Salomon, Keiser, Boehnke, Wilson, J. and Conway)**

**Concerning fire protection sprinkler system contractors.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Labor & Workplace Standards was adopted. For Committee amendment, see Journal, Day 79, Tuesday, March 28, 2023.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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



The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5425, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5425, as amended by the House, 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, 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, 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 Jacobsen  
Excused: Representative Ortiz-Self

SECOND SUBSTITUTE SENATE BILL NO. 5425, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SENATE BILL NO. 5341, by Senators Muzzall, Shewmake, Van De Wege, Torres, Warnick, Kuderer, Liias, Stanford and Wilson, C.**

**Creating a location-based branding and promotion program for Washington food and agricultural products.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Dent and Morgan spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5341.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5341, 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

ENGROSSED SENATE BILL NO. 5341, having received the necessary constitutional majority, was declared passed.

**SENATE BILL NO. 5287, by Senators Wilson, J., Nguyen, Hasegawa, Lovelett, Lovick, Nobles, Schoesler and Wellman**

**Concerning a study on the recycling of wind turbine blades.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Environment & Energy was adopted. For Committee amendment, see Journal, Day 74, Thursday, March 23, 2023.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

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

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Senate Bill No. 5287, as amended by the House.

#### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5287, as amended by the House, 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

SENATE BILL NO. 5287, as amended by the House, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5145, by Senate Committee on Law & Justice (originally sponsored by Short, Salomon, McCune and Warnick)**

**Clarifying existing law regarding liability protections associated with public recreational use of lands or waters under a hydroelectric license issued by the federal energy regulatory commission.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Ybarra and Farivar spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5145.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5145, 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

SUBSTITUTE SENATE BILL NO. 5145, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE SENATE BILL NO. 5433, by Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Muzzall, Shewmake, Liias, Lovelett, MacEwen, Nguyen and Salomon)**

**Concerning the removal of derelict aquatic structures and restoration of aquatic lands.**

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Dent and Reeves spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5433.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5433, 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

SUBSTITUTE SENATE BILL NO. 5433, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 5225, by Senate Committee on Ways & Means (originally sponsored by Wilson, C., Conway, Frame, Hasegawa, Hunt, Keiser, Lovelett, Nguyen, Salomon, Shewmake, Stanford and Valdez)**

**Increasing access to the working connections child care program.**

The bill was read the second time.

Representative Walsh moved the adoption of amendment (586):

On page 4, line 15, after "benefits" insert ", however preference for benefits must be given to applicants and consumers who have provided verification that the child for which benefits are sought is a United States citizen, United States national, qualified alien, or nonqualified alien who meets Washington state residency requirements, as those terms are defined in rule"

Representatives Walsh, Dent and Orcutt spoke in favor of the adoption of the amendment.

Representative Senn spoke against the adoption of the amendment.

Amendment (586) was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Senn, Eslick, Abbarno and Dent spoke in favor of the passage of the bill.

Representatives Walsh and Couture spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 5225.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5225, and the bill passed the House by the following vote: Yeas, 81; Nays, 16; Absent, 0; Excused, 1

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Christian, Connors, Cortes, Davis, Dent, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Harris, Hutchins, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rule, Ryu, Sandlin, 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 Cheney, Corry, Couture, Dye, Goehner, Graham, Griffey, Jacobsen, Klicker, McClintock, McEntire, Rude, Schmick, Schmidt, Volz and Walsh

Excused: Representative Ortiz-Self

SECOND SUBSTITUTE SENATE BILL NO. 5225, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

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

#### MOTION

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5301  
 SENATE BILL NO. 5350  
 SUBSTITUTE SENATE BILL NO. 5398  
 SENATE BILL NO. 5058  
 SECOND SUBSTITUTE SENATE BILL NO. 5412  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5447

**SIGNED BY THE SPEAKER**

The Speaker signed the following bills:

SECOND SUBSTITUTE HOUSE BILL NO. 1013  
 HOUSE BILL NO. 1046  
 SECOND SUBSTITUTE HOUSE BILL NO. 1122  
 SUBSTITUTE HOUSE BILL NO. 1171  
 SECOND SUBSTITUTE HOUSE BILL NO. 1204  
 HOUSE BILL NO. 1237  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1251  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1329  
 HOUSE BILL NO. 1334  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1394  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1469  
 SUBSTITUTE HOUSE BILL NO. 1501  
 SECOND SUBSTITUTE HOUSE BILL NO. 1728

The Speaker called upon Representative Orwall to preside.

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

**MESSAGE FROM THE SENATE**

Tuesday, April 11, 2023

Mme. Speaker:

The President has signed:

SECOND SUBSTITUTE HOUSE BILL NO. 1032  
 SUBSTITUTE HOUSE BILL NO. 1085  
 SUBSTITUTE HOUSE BILL NO. 1177  
 SUBSTITUTE HOUSE BILL NO. 1355  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1361  
 SUBSTITUTE HOUSE BILL NO. 1406  
 SUBSTITUTE HOUSE BILL NO. 1577  
 SUBSTITUTE HOUSE BILL NO. 1658  
 HOUSE BILL NO. 1763

and the same are herewith transmitted.

Colleen Rust, Deputy Secretary

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

**SECOND READING**

**SENATE BILL NO. 5280, by Senators Frame, Boehnke, Hunt, Kuderer, Lovelett, Lovick, Nguyen, Nobles, Saldaña, Wellman and Wilson, C.**

**Concerning the duty of clergy to report child abuse or neglect.**

The bill was read the second time.

There being no objection, the committee striking amendment by the Committee on Human Services, Youth, & Early Learning was before the House for purpose of amendment. For Committee amendment, see Journal, Day 80, Wednesday, March 29, 2023.

Representative Walsh moved the adoption of amendment (683) to the committee striking amendment:

On page 1, after line 2 of the striking amendment, insert the following:

"NEW SECTION. Sec. This act shall be interpreted and enforced narrowly and, to the greatest extent possible, following standards analogous to those applicable to the attorney-client privilege established under RCW 5.60.060."

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

Representatives Walsh and Robertson spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Taylor spoke against the adoption of the amendment to the committee striking amendment.

Amendment (683) to the committee striking amendment was not adopted.

Representative Dent moved the adoption of amendment (579) to the committee striking amendment:

On page 2, line 38 of the striking amendment, after "imam," strike "elder,"

On page 6, line 3 of the striking amendment, after "practitioner," strike "member of the clergy,"

On page 8, line 3 of the striking amendment, after "(g)" insert "(i) The reporting requirement in (a) of this subsection also applies to members of the clergy, except with regard to information that a member of the clergy obtains in the member's professional character as a religious or spiritual advisor when the information is obtained solely as a result of a confession made pursuant to the clergy-penitent privilege as provided in RCW 5.60.060(3), and the member of the clergy is authorized to hear such confession, and has a duty under the discipline, tenets, doctrine, or custom of the member's church, religious denomination, religious body, spiritual community, or sect to keep the confession secret. The clergy-penitent privilege does not apply and the member of the clergy shall report child abuse or neglect if the member of the clergy has received the information from any source other than from a confession.

(ii) Nothing in this subsection (1)(g) limits a member of the clergy's duty to report child abuse or neglect when the member of the clergy is acting in some other capacity that would otherwise require them to make a report.

(h)"

On page 15, after line 15 of the striking amendment, insert the following:

"NEW SECTION. Sec. 3. A new section is added to chapter 44.28 RCW to read as follows:

(1) The joint committee must review the individuals who are required to report child abuse or neglect as provided under RCW 26.44.030 and provide recommendations regarding:

(a) Whether there should be any modification to those identified as mandated reporters; and

(b) Whether the individuals identified as mandated reporters should be required to report child abuse and neglect information obtained solely as a result of a privileged communication as provided under RCW 5.60.060.

(2) The joint committee must report its findings required under this section to the appropriate committees of the legislature by December 1, 2023.

(3) This section expires June 30, 2024."

Representatives Dent and Chambers spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Senn spoke against the adoption of the amendment to the committee striking amendment.

### MOTION

On motion of Representative Leavitt, Representative Santos was excused.

Amendment (579) to the committee striking amendment was not adopted.

Representative Eslick moved the adoption of amendment (556) to the committee striking amendment:

On page 6, line 3 of the striking amendment, after "practitioner," strike "member of the clergy,"

On page 8, line 3 of the striking amendment, after "(g)" insert "(i) The reporting requirement in (a) of this subsection also applies to members of the clergy, except with regard to information that a member of the clergy obtains in the member's professional character as a religious or spiritual advisor when the information is obtained solely as a result of a confession made pursuant to the clergy-penitent privilege as provided in RCW 5.60.060(3), and the member of the clergy is authorized to hear such confession, and has a duty under the discipline, tenets, doctrine, or custom of the member's church, religious denomination, religious body, spiritual community, or sect to keep the confession secret. The clergy-penitent privilege does not apply and the member of the clergy shall report child abuse or neglect if the member of the clergy has received the information from any source other than from a confession.

(ii) Nothing in this subsection (1)(g) limits a member of the clergy's duty to report child abuse or neglect when the member of the clergy is acting in some other capacity that would otherwise require them to make a report.

(h)"

Representatives Eslick, Walsh, Ybarra, Klicker, Graham and Chambers spoke in favor of the adoption of the amendment to the committee striking amendment.

Representatives Taylor, Barnard, Rude and Couture spoke against the adoption of the amendment to the committee striking amendment.

Amendment (556) to the committee striking amendment was not adopted.

Representative Walsh moved the adoption of amendment (575) to the committee striking amendment:

On page 6, line 3 of the striking amendment, after "practitioner," strike "member of the clergy,"

On page 8, line 3 of the striking amendment, after "(g)" insert "(i) The reporting requirement in (a) of this subsection also applies to members of the clergy, except with regard to information that a member of the clergy obtains in the member's professional character as a religious or spiritual advisor when the information is obtained solely in the context of a penitential communication.

(ii) For purposes of this subsection (1)(g) of this section, "penitential communication" means a communication that is:

(A) Communicated through spoken word;

(B) Made privately to a member of the clergy;

(C) Intended by the communicant to be an act of contrition or a matter of conscience;

(D) Intended by both parties to be confidential at the time the communication is made; and

(E) Made in the manner and context that places the member of the clergy specifically and strictly under a level of confidentiality that is considered inviolate by religious doctrine of the member of the clergy.

(iii) A member of the clergy shall report child abuse or neglect if the member of the clergy has received the child abuse or neglect information from any source other than from a penitential communication.

(iv) Nothing in this subsection (1)(g) limits a member of the clergy's duty to report child abuse or neglect when the member of the clergy is acting in some other capacity that would otherwise require them to make a report.

(h)"

Representatives Walsh, Eslick and Dent spoke in favor of the adoption of the amendment to the committee striking amendment.

Representative Cortes spoke against the adoption of the amendment to the committee striking amendment.

### MOTION

On motion of Representative Griffey, Representative Waters was excused.

Representative Chambers spoke in favor of the adoption of the amendment to the committee striking amendment.

Amendment (575) to the committee striking amendment was not adopted.

Representative Walsh moved the adoption of amendment (574) to the committee striking amendment:

On page 8, line 3 of the striking amendment, after "(g)" insert "The reporting requirement in (a) of this subsection also applies to attorneys. No privilege, including the attorney-client privilege described in RCW 5.60.060(2), relieves

attorneys from the reporting requirement under this subsection.  
(h)"

### POINT OF ORDER

Representative Stonier requested a scope and object ruling on amendment (574) to the committee striking amendment to SENATE BILL NO. 5280.

### SPEAKER'S RULING

"The title of Senate Bill 5280 is an act relating to the duty of clergy to report child abuse or neglect.

The bill requires members of the clergy to report child abuse or neglect if there is reasonable cause to believe that a child has suffered abuse or neglect. Amendment (574) extends this reporting requirement to attorneys.

The Speaker therefore finds and rules that the amendment is outside the scope of the bill as defined by its title.

The point of order is well taken."

Representative Dent moved the adoption of amendment (558) to the committee striking amendment:

On page 1 of the striking amendment, strike all material after line 2 and insert the following:

"NEW SECTION. Sec. A new section is added to chapter 44.28 RCW to read as follows:

(1) The joint committee must review the individuals who are required to report child abuse or neglect as provided under RCW 26.44.030 and provide recommendations regarding:

(a) Whether there should be any modification to those identified as mandated reporters; and

(b) Whether the individuals identified as mandated reporters should be required to report child abuse and neglect information obtained solely as a result of a privileged communication as provided under RCW 5.60.060.

(2) The joint committee must report its findings required under this section to the appropriate committees of the legislature by December 1, 2023.

(3) This section expires June 30, 2024."

Correct the title.

Representatives Dent, Chambers, Eslick and Walsh spoke in favor of the adoption of the amendment to the committee striking amendment.

Representatives Senn and Barnard spoke against the adoption of the amendment to the committee striking amendment.

Amendment (558) to the committee striking amendment was not adopted.

There being no objection, the committee striking by the Committee on Human Services, Youth, & Early Learning was adopted. For Committee amendment, see Journal, Day 80, Wednesday, March 29, 2023.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Walen, Couture, Senn, Christian, Rude, Barnard and Stonier spoke in favor of the passage of the bill.

Representatives Eslick, Chambers, Graham, Ybarra, Jacobsen, Dye, Klicker, Walsh and Dent spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Senate Bill No. 5280, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 5280, as amended by the House, and the bill passed the House by the following vote: Yeas, 75; Nays, 20; Absent, 0; Excused, 3

Voting Yea: Representatives Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chopp, Christian, Connors, Cortes, Couture, Davis, Doglio, Donaghy, Duerr, Entenman, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Kloba, Kretz, Leavitt, Lekanoff, Macri, Maycumber, McEntire, Mena, Morgan, Mosbrucker, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Ryu, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Wilcox, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Chambers, Chandler, Chapman, Cheney, Corry, Dent, Dye, Eslick, Graham, Jacobsen, Klicker, Low, McClintock, Orcutt, Sandlin, Schmick, Volz, Walsh and Ybarra

Excused: Representatives Ortiz-Self, Santos and Waters

SENATE BILL NO. 5280, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5440, by Senate Committee on Ways & Means (originally sponsored by Dhingra, Nguyen, Saldaña, Valdez, Van De Wege and Wilson, C.)**

**Providing timely competency evaluations and restoration services to persons suffering from behavioral health disorders.**

The bill was read the second time.

There being no objection, the committee striking by the Committee on Civil Rights & Judiciary was not adopted. For Committee amendment, see Journal, Day 80, Wednesday, March 29, 2023.

There being no objection, the committee striking by the Committee on Appropriations was not adopted. For Committee amendment, see Journal, Day 86, Tuesday, April 4, 2023.

With the consent of the House, amendment (669) was withdrawn.

Representative Farivar moved the adoption of the striking amendment (688):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that defendants referred for services related to competency to stand trial requiring admission into a psychiatric facility are currently facing unprecedented wait times in jail for admission. The situation has been exacerbated by closure of forensic beds and workforce shortages related to COVID-19, and treatment capacity

limits related to social distancing requirements. Moreover, a backlog of criminal prosecutions that were held back during the first two years of the pandemic due to capacity limitations in courts, prosecuting attorneys offices, and jails, are now being filed, causing a surge in demand for competency services which exceeds the state's capacity to make a timely response. In partial consequence, as of January 2023, wait times for admission to western state hospital for competency services, directed to be completed within seven days by order of the United States district court for western Washington, have risen to over ten months, while wait times for admission to eastern state hospital for the same services have risen to over five months. The state's forensic bed capacity forecast model indicates that if the state continues to receive competency referrals from local superior, district, and municipal courts at the same volume, the state will rapidly fall farther behind.

The legislature further finds that historical investments and policy changes have been made in behavioral health services over the past five years, designed to both increase capacity to provide competency to stand trial services and to reduce the need for them by creating opportunities for diversion, prevention, and improved community health. New construction at western state hospital is expected to result in the opening of 58 forensic psychiatric beds in the first quarter of 2023, while emergency community hospital contracts are expected to allow for the discharge or transfer of over 50 civil conversion patients occupying forensic state hospital beds over the same period. Sixteen beds for civil conversion patients will open at Maple Lane school in the first quarter of 2023, with 30 additional beds for patients acquitted by reason of insanity expected to open by late 2023 or early 2024. Over a longer time period, 350 forensic beds are planned to open within a new forensic hospital on western state hospital campus between 2027 and 2029. Policy and budget changes have increased capacity for assisted outpatient treatment, 988 crisis response, use of medication for opioid use disorders in jails and community settings, reentry services, and mental health advance directives, and created new behavioral health facility types, supportive housing, and supportive employment services. Forensic navigator services, outpatient competency restoration programs, and other specialty forensic services are now available and continuing to be deployed in phase two *Trueblood* settlement regions.

The legislature further finds that despite these investments there is a need for everyone to come together to find solutions to both reduce demand for forensic services and to increase their supply. The state needs collaboration from local governments and other entities to identify any and all facilities that can be used to provide services to patients connected to the forensic system, to reduce the flow of competency referrals coming from municipal, district, and superior courts, and to improve availability and effectiveness of

behavioral health services provided outside the criminal justice system.

**Sec. 2.** RCW 10.77.010 and 2022 c 288 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Admission" means acceptance based on medical necessity, of a person as a patient.

(2) "Authority" means the Washington state health care authority.

(3) "Clinical intervention specialist" means a licensed professional with prescribing authority who is employed by or contracted with the department to provide direct services, enhanced oversight and monitoring of the behavioral health status of in-custody defendants who have been referred for evaluation or restoration services related to competency to stand trial and who coordinate treatment options with forensic navigators, the department, and jail health services.

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

~~((4))~~(5) "Community behavioral health agency" has the same meaning as "licensed or certified behavioral health agency" defined in RCW 71.24.025.

~~((5))~~(6) "Conditional release" means modification of a court-ordered commitment, which may be revoked upon violation of any of its terms.

~~((6))~~(7) A "criminally insane" person means any person who has been acquitted of a crime charged by reason of insanity, and thereupon found to be a substantial danger to other persons or to present a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons or institutions.

~~((7))~~(8) "Department" means the state department of social and health services.

~~((8))~~(9) "Designated crisis responder" has the same meaning as provided in RCW 71.05.020.

~~((9))~~(10) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter, pending evaluation.

~~((10))~~(11) "Developmental disabilities professional" means a person who has specialized training and ~~((three years of))~~ experience in directly treating or working with persons with developmental disabilities and is a psychiatrist or psychologist, or a social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

~~((11))~~(12) "Developmental disability" means the condition as defined in RCW 71A.10.020 ~~((5))~~.

~~((12))~~(13) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order.

~~((13))~~(14) "Furlough" means an authorized leave of absence for a resident of a state institution operated by the department designated for the custody, care, and treatment of the criminally insane,

consistent with an order of conditional release from the court under this chapter, without any requirement that the resident be accompanied by, or be in the custody of, any law enforcement or institutional staff, while on such unescorted leave.

~~((14))~~ (15) "Genuine doubt as to competency" means that there is reasonable cause to believe, based upon actual interactions with or observations of the defendant or information provided by counsel, that a defendant is incompetent to stand trial.

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

~~((15))~~ (17) "History of one or more violent acts" means violent acts committed during: (a) The ten-year period of time prior to the filing of criminal charges; plus (b) the amount of time equal to time spent during the ten-year period in a mental health facility or in confinement as a result of a criminal conviction.

~~((16))~~ (18) "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, sibling, or domestic partner.

~~((17))~~ (19) "Incompetency" means a person lacks the capacity to understand the nature of the proceedings against him or her or to assist in his or her own defense as a result of mental disease or defect.

~~((18))~~ (20) "Indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

~~((19))~~ (21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for an individual with developmental disabilities, which shall state:

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

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

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

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

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

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

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

~~((20))~~ (22) "Professional person" means:

(a) A psychiatrist licensed as a physician and surgeon in this state who has, in addition, completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology or the American osteopathic board of neurology and psychiatry;

(b) A psychologist pursuant to chapter 18.83 RCW;

(c) A psychiatric advanced registered nurse practitioner, as defined in RCW 71.05.020; or

(d) A social worker with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

~~((21))~~ (23) "Release" means legal termination of the court-ordered commitment under the provisions of this chapter.

~~((22))~~ (24) "Secretary" means the secretary of the department of social and health services or his or her designee.

~~((23))~~ (25) "Treatment" means any currently standardized medical or mental health procedure including medication.

~~((24))~~ (26) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, behavioral health administrative services organizations, managed care organizations, or a treatment facility if the notes or records are not available to others.

~~((25))~~ (27) "Violent act" means behavior that: (a) (i) Resulted in; (ii) if completed as intended would have resulted in; or (iii) was threatened to be carried out by a person who had the intent and opportunity to carry out the threat and would have resulted in, homicide, nonfatal injuries, or substantial damage to property; or (b) recklessly creates an immediate risk of serious physical injury to another person. As used in this subsection, "nonfatal injuries" means physical pain or injury, illness, or an impairment of physical condition. "Nonfatal injuries" shall be construed to be consistent with the definition of "bodily injury," as defined in RCW 9A.04.110.

**Sec. 3.** RCW 10.77.060 and 2022 c 288 s 2 are each amended to read as follows:

(1) (a) Whenever a defendant has pleaded not guilty by reason of insanity, ~~((or there is reason to doubt his or her competency,))~~ the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(b)(i) Whenever there is a doubt as to competency, the court on its own motion or on the motion of any party shall first review the allegations of incompetency. The court shall make a determination of whether sufficient facts have been provided to form a genuine doubt as to competency based on information provided by counsel, judicial colloquy, or direct observation of the defendant. If a genuine doubt as to competency exists, the court shall either appoint or request the secretary to designate a qualified expert or professional person, who shall be approved by the prosecuting attorney, to evaluate and report upon the mental condition of the defendant.

(ii) Nothing in this subsection (1)(b) is intended to require a waiver of attorney-client privilege. Defense counsel may meet the requirements under this subsection (1)(b) by filing a declaration stating that they have reason to believe that a competency evaluation is necessary, and stating the basis on which the defendant is believed to be incompetent, without further detail required.

(c) The signed order of the court shall serve as authority for the evaluator to be given access to all records held by any mental health, medical, long-term services or supports, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. If the court is advised by any party that the defendant may have a developmental disability, the evaluation must be performed by a developmental disabilities professional and the evaluator shall have access to records of the developmental disabilities administration of the department. If the court is advised by any party that the defendant may have dementia or another relevant neurocognitive disorder, the evaluator shall have access to records of the aging and long-term support administration of the department.

(~~(e)~~)(d) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant to a hospital or secure mental health facility for a period of commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(~~(d)~~)(e) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation.

(~~(e)~~)(f) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(~~(f)~~)(g) When a defendant is ordered to be evaluated under this subsection (1), or when a party or the court determines at first appearance that an order for evaluation under this subsection will be requested or ordered if charges are pursued, the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(h) If the defendant ordered to be evaluated under this subsection (1) is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the prosecutor may make a motion to modify the defendant's conditions of release to include a condition prohibiting the defendant from driving during the pendency of the competency evaluation period.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the evaluation shall include the following:

(a) A description of the nature of the evaluation;

(b) A diagnosis or description of the current mental status of the defendant;

(c) If the defendant (~~(suffers from))~~ has a mental disease or defect, or has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of



insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a designated crisis responder under chapter 71.05 RCW.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

(5) In the event that a person remains in jail more than 21 days after service on the department of a court order to transport the person to a facility designated by the department for inpatient competency restoration treatment, upon the request of any party and with notice to all parties, the department shall perform a competency to stand trial status check to determine if the circumstances of the person have changed such that the court should authorize an updated competency evaluation. The status update shall be provided to the parties and the court. Status updates may be provided at reasonable intervals.

(6) If a finding of the competency evaluation under this section or under RCW 10.77.084 is that the individual is not competent due to an intellectual or developmental disability, dementia, or traumatic brain injury, the evaluator shall notify the department, which shall refer the individual to the developmental disabilities administration or the aging and long-term support administration of the department for review of eligibility for services. Information about availability of services must be provided to the forensic navigator.

(7) If the expert or professional person appointed to perform a competency evaluation in the community is not able to complete the evaluation after two attempts at scheduling with the defendant, the department shall submit a report to the court and parties and include a date and time for another evaluation which must be at least four weeks later. The court shall provide notice to the defendant of the date and time of the evaluation. If the defendant fails to appear at that appointment, the court shall issue a

warrant for the failure to appear and recall the order for competency evaluation.

**Sec. 4.** RCW 10.77.068 and 2022 c 288 s 3 are each amended to read as follows:

(1)(a) The legislature establishes a performance target of seven days or fewer to extend an offer of admission to a defendant in pretrial custody for inpatient competency evaluation or inpatient competency restoration services, when access to the services is legally authorized.

(b) The legislature establishes a performance target of 14 days or fewer for the following services related to competency to stand trial, when access to the services is legally authorized:

(i) To complete a competency evaluation in jail and distribute the evaluation report; and

(ii) To extend an offer of admission to a defendant ordered to be committed to ~~((a state hospital))~~ the department for placement in a facility operated by or contracted by the department following dismissal of charges based on incompetency to stand trial under RCW 10.77.086.

(c) The legislature establishes a performance target of 21 days or fewer to complete a competency evaluation in the community and distribute the evaluation report.

(2)(a) A maximum time limit of seven days as measured from the department's receipt of the court order, or a maximum time limit of 14 days as measured from signature of the court order, whichever is shorter, is established to complete the services specified in subsection (1)(a) of this section, subject to the limitations under subsection (9) of this section.

(b) A maximum time limit of 14 days as measured from the department's receipt of the court order, or a maximum time limit of 21 days as measured from signature of the court order, whichever is shorter, is established to complete the services specified in subsection (1)(b) of this section, subject to the limitations under subsection (9) of this section.

(3) The legislature recognizes that these targets may not be achievable in all cases, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy and quality of competency services.

(4) It shall be a defense to an allegation that the department has exceeded the maximum time limits for completion of competency services described in subsection (2) of this section if the department can demonstrate by a preponderance of the evidence that the reason for exceeding the maximum time limits was outside of the department's control including, but not limited to, the following circumstances:

(a) Despite a timely request, the department has not received necessary medical information regarding the current medical status of a defendant;

(b) The individual circumstances of the defendant make accurate completion of an evaluation of competency to stand trial dependent upon review of mental health,

substance use disorder, or medical history information which is in the custody of a third party and cannot be immediately obtained by the department, provided that completion shall not be postponed for procurement of information which is merely supplementary;

(c) Additional time is needed for the defendant to no longer show active signs and symptoms of impairment related to substance use so that an accurate evaluation may be completed;

(d) The defendant is medically unavailable for competency evaluation or admission to a facility for competency restoration;

(e) Completion of the referral requires additional time to accommodate the availability or participation of counsel, court personnel, interpreters, or the defendant;

(f) The defendant asserts legal rights that result in a delay in the provision of competency services; or

(g) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

(5) The department shall provide written notice to the court when it will not be able to meet the maximum time limits under subsection (2) of this section and identify the reasons for the delay and provide a reasonable estimate of the time necessary to complete the competency service. Good cause for an extension for the additional time estimated by the department shall be presumed absent a written response from the court or a party received by the department within seven days.

(6) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

(7) Following any quarter in which a state hospital has failed to meet one or more of the performance targets or maximum time limits under subsection (1) or (2) of this section, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report shall be made publicly available. An average may be used to determine timeliness under this subsection.

(8) The department shall report annually to the legislature and the executive on the timeliness of services related to competency

to stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(9) This section does not create any new entitlement or cause of action related to the timeliness of competency to stand trial services, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

**Sec. 5.** RCW 10.77.074 and 2019 c 326 s 2 are each amended to read as follows:

(1) Subject to the limitations described in subsection (2) of this section, a court may appoint an impartial forensic navigator employed by or contracted by the department to assist individuals who have been referred for competency evaluation and shall appoint a forensic navigator in circumstances described under section 10 of this act.

(2) A forensic navigator must assist the individual to access services related to diversion and community outpatient competency restoration. The forensic navigator must assist the individual, prosecuting attorney, defense attorney, and the court to understand the options available to the individual and be accountable as an officer of the court for faithful execution of the responsibilities outlined in this section.

(3) The duties of the forensic navigator include, but are not limited to, the following:

(a) To collect relevant information about the individual, including behavioral health services and supports available to the individual that might support placement in outpatient restoration, diversion, or some combination of these;

(b) To meet with, interview, and observe the individual;

(c) To assess the individual for appropriateness for assisted outpatient treatment under chapter 71.05 RCW;

(d) To present information to the court in order to assist the court in understanding the treatment options available to the individual to support the entry of orders for diversion from the forensic mental health system or for community outpatient competency restoration, ~~((and))~~ to facilitate that transition; ~~((and~~

~~(d))~~ (e) To provide regular updates to the court and parties of the status of the individual's participation in diversion services and be responsive to inquiries by the parties about treatment status;

(f) When the individual is ordered to receive community outpatient restoration, to provide services to the individual including:

(i) Assisting the individual with attending appointments and classes relating to outpatient competency restoration;

(ii) Coordinating access to housing for the individual;

(iii) Meeting with the individual on a regular basis;

(iv) Providing information to the court concerning the individual's progress and compliance with court-ordered conditions of release, which may include appearing at court hearings to provide information to the court;

(v) Coordinating the individual's access to community case management services and mental health services;

(vi) Assisting the individual with obtaining prescribed medication and encouraging adherence with prescribed medication;

(vii) Assessing the individual for appropriateness for assisted outpatient treatment under chapter 71.05 RCW and coordinating the initiation of an assisted outpatient treatment order if appropriate as part of a diversion program plan;

(viii) Planning for a coordinated transition of the individual to a case manager in the community behavioral health system;

~~((viii))~~ (ix) Attempting to follow-up with the individual to check whether the meeting with a community-based case manager took place;

~~((ix))~~ (x) When the individual is a high utilizer, attempting to connect the individual with high utilizer services; and

~~((x))~~ (xi) Attempting to check up on the individual at least once per month for up to sixty days after coordinated transition to community behavioral health services, without duplicating the services of the community-based case manager;

(g) If the individual is an American Indian or Alaska Native who receives medical, behavioral health, housing, or other supportive services from a tribe within this state, to notify and coordinate with the tribe and Indian health care provider. Notification shall be made in person or by telephonic or electronic communication to the tribal contact listed in the authority's tribal crisis coordination plan as soon as possible.

(4) Forensic navigators may submit ~~((nonclinical))~~ recommendations to the court regarding treatment and restoration options for the individual, which the court may consider and weigh in conjunction with the recommendations of all of the parties.

(5) Forensic navigators shall be deemed officers of the court for the purpose of immunity from civil liability.

(6) The signed order for competency evaluation from the court shall serve as authority for the forensic navigator to be given access to all records held by a behavioral health, educational, or law enforcement agency or a correctional facility that relates to an individual. Information that is protected by state or federal law, including health information, shall not be entered into the court record without the consent of the individual or their defense attorney.

(7) Admissions made by the individual in the course of receiving services from the forensic navigator may not be used against the individual in the prosecution's case in chief.

(8) A court may not issue an order appointing a forensic navigator unless the department certifies that there is adequate

forensic navigator capacity to provide these services at the time the order is issued.

**Sec. 6.** RCW 10.77.084 and 2016 sp.s. c 29 s 410 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section. Beginning October 1, 2023, if the defendant is charged with a serious traffic offense under RCW 9.94A.030, or a felony version of a serious traffic offense, the court may order the clerk to transmit an order to the department of licensing for revocation of the defendant's driver's license for a period of one year.

(b) The court may order a defendant who has been found to be incompetent to undergo competency restoration treatment at a facility designated by the department if the defendant is eligible under RCW 10.77.086 or 10.77.088. At the end of each competency restoration period or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing, except that if the opinion of the professional person is that the defendant remains incompetent and the hearing is held before the expiration of the current competency restoration period, the parties may agree to waive the defendant's presence, to remote participation by the defendant at a hearing, or to presentation of an agreed order in lieu of a hearing. The facility shall promptly notify the court and all parties of the date on which the competency restoration period commences and expires so that a timely hearing date may be scheduled.

(c) If, following notice and hearing or entry of an agreed order under (b) of this subsection, the court finds that competency has been restored, the court shall lift the stay entered under (a) of this subsection. If the court finds that competency has not been restored, the court shall dismiss the proceedings without prejudice, except that the court may order a further period of competency restoration treatment if it finds that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, and a further period of treatment is allowed under RCW 10.77.086 or 10.77.088.

(d) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the court shall dismiss the proceedings without prejudice and refer the defendant for civil commitment evaluation or proceedings if appropriate under RCW 10.77.065, 10.77.086, or 10.77.088.

(e) Beginning October 1, 2023, if the court issues an order directing revocation of the defendant's driver's license under (a) of this subsection, and the court subsequently finds that the defendant's competency has been restored, the court shall order the clerk to transmit an order to the department of licensing for

reinstatement of the defendant's driver's license. The court may direct the clerk to transmit an order reinstating the defendant's driver's license before the end of one year for good cause upon the petition of the defendant.

(2) If the defendant is referred for evaluation by a designated crisis responder under this chapter, the designated crisis responder shall provide prompt written notification of the results of the evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

(3) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of evaluation which meets the requirements of RCW 10.77.060(3). For defendants charged with a felony, the report following the second competency restoration period or first competency restoration period if the defendant's incompetence is determined to be solely due to a developmental disability or the evaluator concludes that the defendant is not likely to regain competency must include an assessment of the defendant's future dangerousness which is evidence-based regarding predictive validity.

**Sec. 7.** RCW 10.77.086 and 2022 c 288 s 4 are each amended to read as follows:

(1) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than 90 days, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties.

(a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

- (i) Adhere to medications or receive prescribed intramuscular medication;
- (ii) Abstain from alcohol and unprescribed drugs; and
- (iii) Comply with urinalysis or breathalyzer monitoring if needed.

(b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(d) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to the designated inpatient competency restoration facility. If medical clearance is required by the designated competency restoration facility before admission, the peace officer must transport the defendant to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance once a bed is available at the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the

defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for inpatient competency restoration or for medical clearance, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the conditions of release of the defendant and anticipated release from treatment and issue appropriate orders.

(e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(2) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial competency restoration period is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration, provided that if the outpatient competency restoration placement is terminated and the defendant is subsequently admitted to an inpatient facility, the period of inpatient treatment during the first competency restoration period under this subsection shall not exceed 45 days.

(3) If the court determines or the parties agree before the initial competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (5) of this section.

(4) On or before expiration of the initial competency restoration period the court shall conduct a hearing to determine whether the defendant is now competent to stand trial. If the court finds by a preponderance of the evidence that the defendant is incompetent to stand trial, the court may order an extension of the competency restoration period for an additional period of 90 days, but the court must at the same time set a date for a new hearing to determine the defendant's competency to stand trial before the expiration of this second restoration period. The defendant, the defendant's attorney, and the prosecutor have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third competency restoration period if the defendant's incompetence has been determined by the secretary to be solely the

result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(5) ~~((A+))~~ (a) Except as provided in (b) of this subsection, at the hearing upon the expiration of the second competency restoration period, or at the end of the first competency restoration period if the defendant is ineligible for a second or third competency restoration period under subsection (4) of this section, if the jury or court finds that the defendant is incompetent to stand trial, the court shall dismiss the charges without prejudice and order the defendant to be committed to ~~((a state hospital))~~ the department for placement in a facility operated or contracted by the department for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services and up to 72 hours if the defendant engaged in inpatient competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ~~((However, the))~~ If at the time the order to dismiss the charges without prejudice is entered by the court the defendant is already in a facility operated or contracted by the department, the 72-hour or 120-hour period shall instead begin upon department receipt of the court order.

(b) The court shall not dismiss the charges if the court or jury finds that:  
~~((a+))~~ (i) The defendant ~~((+i))~~ (A) is a substantial danger to other persons; or  
~~((+ii))~~ (B) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and  
~~((+b))~~ (ii) there is a substantial probability that the defendant will regain competency within a reasonable period of time. If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

(6) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program and is in addition to reasonable time for transport to or from the facility.

**Sec. 8.** RCW 10.77.086 and 2022 c 288 s 4 are each amended to read as follows:

(1) If the defendant is charged with a felony that is not a qualifying class C felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, but in any event for a period of no longer than 90 days, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration, or may alternatively order the defendant to receive outpatient competency restoration based on a recommendation from a forensic navigator and input from the parties.

(2) (a) For a defendant who is determined to be incompetent and whose highest charge

is a qualifying class C felony, the court shall first consider all available and appropriate alternatives to inpatient competency restoration. If such placement does not exist, is not appropriate, or is not available in a timely manner, the court shall commit the defendant to the custody of the secretary for inpatient competency restoration. Available and appropriate alternatives includes diversion to a community-based program and dismissal of charges, commitment under chapter 71.05 RCW, or outpatient competency restoration.

(b) If the defendant is subject to an order under chapter 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated, there is a rebuttable presumption that there is no compelling state interest in ordering competency restoration treatment.

(3)(a) To be eligible for an order for outpatient competency restoration, a defendant must be clinically appropriate and be willing to:

(i) Adhere to medications or receive prescribed intramuscular medication;

(ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

(b) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration.

(c) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority, must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

(d) If a defendant fails to comply with the restrictions of the outpatient restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under (d)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time

period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to the designated inpatient competency restoration facility. If medical clearance is required by the designated competency restoration facility before admission, the peace officer must transport the defendant to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance once a bed is available at the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for inpatient competency restoration or for medical clearance, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the conditions of release of the defendant and anticipated release from treatment and issue appropriate orders.

(e) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient competency restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

~~((2))~~ (4)(a) For a defendant whose highest charge is a class C felony that is not a qualifying class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial competency restoration period is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration, provided that if the outpatient competency restoration placement is terminated and the defendant is subsequently admitted to an inpatient facility, the period of inpatient treatment during the first competency restoration period under this subsection shall not exceed 45 days.

~~((3))~~ (b) For a defendant whose highest charge is a qualifying class C felony, the maximum time allowed for competency

restoration is 45 days if the defendant is referred for inpatient competency restoration, or 90 days if the defendant is referred for outpatient competency restoration. The court may order any combination of inpatient and outpatient competency restoration under this subsection, but the total period of inpatient competency restoration may not exceed 45 days.

(c) For any defendant with a felony charge that is admitted for competency restoration with an accompanying court order for involuntary medication under RCW 10.77.092, and the defendant is found not competent to stand trial following that period of restoration, charges shall be dismissed pursuant to subsection (7) of this section.

(5) If the court determines or the parties agree before the initial competency restoration period or at any subsequent stage of the proceedings that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo an initial or further period of competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection ((+5)) (7) of this section.

((+4) On) (6) For a defendant charged with a felony that is not a qualifying class C felony, on or before expiration of the initial competency restoration period the court shall conduct a hearing to determine whether the defendant is now competent to stand trial. If the court finds by a preponderance of the evidence that the defendant is incompetent to stand trial, the court may order an extension of the competency restoration period for an additional period of 90 days, but the court must at the same time set a date for a new hearing to determine the defendant's competency to stand trial before the expiration of this second restoration period. The defendant, the defendant's attorney, and the prosecutor have the right to demand that the hearing be before a jury. No extension shall be ordered for a second or third competency restoration period if the defendant's incompetence has been determined by the secretary to be solely the result of ((a)) an intellectual or developmental disability, dementia, or traumatic brain injury which is such that competence is not reasonably likely to be regained during an extension.

((+5) At) (7) (a) Except as provided in (b) of this subsection, at the hearing upon the expiration of the second competency restoration period, or at the end of the first competency restoration period if the defendant is ineligible for a second or third competency restoration period under subsection (4) or (6) of this section, if the jury or court finds that the defendant is incompetent to stand trial, the court shall dismiss the charges without prejudice and order the defendant to be committed to ((a state hospital)) the department for placement in a facility operated or contracted by the department for up to 120 hours if the defendant has not undergone

competency restoration services or has engaged in outpatient competency restoration services, and up to 72 hours if the defendant engaged in inpatient competency restoration services starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition under chapter 71.05 RCW. ~~((However,))~~ If at the time the order to dismiss the charges without prejudice is entered by the court the defendant is already in a facility operated or contracted by the department, the 72-hour or 120-hour period shall instead begin upon department receipt of the court order.

(b) For a defendant charged with a felony that is not a qualifying class C felony, the court shall not dismiss the charges if the court or jury finds that: ((+a)) (i) The defendant ((+i)) (A) is a substantial danger to other persons; or ((+ii)) (B) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and ((+b)) (ii) there is a substantial probability that the defendant will regain competency within a reasonable period of time. If the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

((+6)) (8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program and is in addition to reasonable time for transport to or from the facility.

(9) "Qualifying class C felony" means any class C felony offense except: (a) Assault in the third degree under RCW 9A.36.031(1) (d) or (f); (b) felony physical control of a vehicle under RCW 46.61.504(6); (c) felony hit and run resulting in injury under RCW 46.52.020(4) (b); (d) hate crime offense under RCW 9A.36.080; (e) any class C felony offense with a domestic violence designation; (f) any class C felony sex offense as defined in RCW 9.94A.030; and (g) any class C felony offense with a sexual motivation allegation.

**Sec. 9.** RCW 10.77.088 and 2022 c 288 s 5 are each amended to read as follows:

(1) If the defendant is charged with a nonfelony crime which is a serious offense as identified in RCW 10.77.092 and found by the court to be not competent, then the court:

(a) Shall dismiss the proceedings without prejudice and detain the defendant ~~((for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05 RCW))~~ pursuant to subsection (5) of this section, unless the prosecutor objects to the dismissal and provides notice of a motion for an order for competency restoration treatment, in which case the court shall schedule a hearing within seven days.

(b) (i) At the hearing, the prosecuting attorney must establish that there is a compelling state interest to order

competency restoration treatment for the defendant. The court may consider prior criminal history, prior history in treatment, prior history of violence, the quality and severity of the pending charges, any history that suggests whether competency restoration treatment is likely to be successful, in addition to the factors listed under RCW 10.77.092. If the prosecuting attorney proves by a preponderance of the evidence that there is a compelling state interest in ordering competency restoration treatment, then the court shall issue an order in accordance with subsection (2) of this section.

(ii) If the defendant is subject to an order under chapter 71.05 RCW or proceedings under chapter 71.05 RCW have been initiated, there is a rebuttable presumption that there is no compelling state interest in ordering competency restoration treatment. Beginning October 1, 2023, if the defendant is charged with a serious traffic offense under RCW 9.94A.030, the court may order the clerk to transmit an order to the department of licensing for revocation of the defendant's driver's license for a period of one year. The court shall direct the clerk to transmit an order to the department of licensing reinstating the defendant's driver's license if the defendant is subsequently restored to competency, and may do so at any time before the end of one year for good cause upon the petition of the defendant.

(2)(a) If a court finds pursuant to subsection (1)(b) of this section that there is a compelling state interest in pursuing competency restoration treatment, the court shall ~~((commit the defendant to the custody of the secretary for inpatient competency restoration, or may alternatively))~~ order the defendant to receive outpatient competency restoration ~~((based on a recommendation from a forensic navigator and input from the parties))~~ consistent with the recommendation of the forensic navigator, unless the court finds that an order for outpatient competency restoration is inappropriate considering the health and safety of the defendant and risks to public safety.

~~((a))~~(b) To be eligible for an order for outpatient competency restoration, a defendant must be ~~((clinically appropriate and be))~~ willing to:

(i) Adhere to medications or receive prescribed intramuscular medication;

(ii) Abstain from alcohol and unprescribed drugs; and

(iii) Comply with urinalysis or breathalyzer monitoring if needed.

~~((b))~~(c) If the court orders inpatient competency restoration, the department shall place the defendant in an appropriate facility of the department for competency restoration under subsection (3) of this section.

~~((e))~~(d) If the court orders outpatient competency restoration, the court shall modify conditions of release as needed to authorize the department to place the person in approved housing, which may include access to supported housing, affiliated with a contracted outpatient competency restoration program. The department, in conjunction with the health care authority,

must establish rules for conditions of participation in the outpatient competency restoration program, which must include the defendant being subject to medication management. The court may order regular urinalysis testing. The outpatient competency restoration program shall monitor the defendant during the defendant's placement in the program and report any noncompliance or significant changes with respect to the defendant to the department and, if applicable, the forensic navigator.

~~((d))~~(e) If a defendant fails to comply with the restrictions of the outpatient competency restoration program such that restoration is no longer appropriate in that setting or the defendant is no longer clinically appropriate for outpatient competency restoration, the director of the outpatient competency restoration program shall notify the authority and the department of the need to terminate the outpatient competency restoration placement and intent to request placement for the defendant in an appropriate facility of the department for inpatient competency restoration. The outpatient competency restoration program shall coordinate with the authority, the department, and any law enforcement personnel under ~~((d))~~(e)(i) of this subsection to ensure that the time period between termination and admission into the inpatient facility is as minimal as possible. The time period for inpatient competency restoration shall be reduced by the time period spent in active treatment within the outpatient competency restoration program, excluding time periods in which the defendant was absent from the program and all time from notice of termination of the outpatient competency restoration period through the defendant's admission to the facility. The department shall obtain a placement for the defendant within seven days of the notice of intent to terminate the outpatient competency restoration placement.

(i) The department may authorize a peace officer to detain the defendant into emergency custody for transport to the designated inpatient competency restoration facility. If medical clearance is required by the designated competency restoration facility before admission, the peace officer must transport the defendant to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, or triage facility for medical clearance once a bed is available at the designated inpatient competency restoration facility. The signed outpatient competency restoration order of the court shall serve as authority for the detention of the defendant under this subsection. This subsection does not preclude voluntary transportation of the defendant to a facility for inpatient competency restoration or for medical clearance, or authorize admission of the defendant into jail.

(ii) The department shall notify the court and parties of the defendant's admission for inpatient competency restoration before the close of the next judicial day. The court shall schedule a hearing within five days to review the



conditions of release of the defendant and anticipated release from treatment and issue appropriate orders.

~~((e))~~(f) The court may not issue an order for outpatient competency restoration unless the department certifies that there is an available appropriate outpatient restoration program that has adequate space for the person at the time the order is issued or the court places the defendant under the guidance and control of a professional person identified in the court order.

(g) If the court does not order the defendant to receive outpatient competency restoration under (a) of this subsection, the court shall commit the defendant to the department for placement in a facility operated or contracted by the department for inpatient competency restoration.

(3) The placement under subsection (2) of this section shall not exceed 29 days if the defendant is ordered to receive inpatient competency restoration, and shall not exceed 90 days if the defendant is ordered to receive outpatient competency restoration. The court may order any combination of this subsection, but the total period of inpatient competency restoration may not exceed 29 days.

(4) If the court has determined or the parties agree that the defendant is unlikely to regain competency, the court may dismiss the charges without prejudice without ordering the defendant to undergo competency restoration treatment, in which case the court shall order that the defendant be referred for evaluation for civil commitment in the manner provided in subsection (5) of this section.

(5)(a) If the proceedings are dismissed under RCW 10.77.084 and the defendant was on conditional release at the time of dismissal, the court shall order the designated crisis responder within that county to evaluate the defendant pursuant to chapter 71.05 RCW. The evaluation may be conducted in any location chosen by the professional.

(b) If the defendant was in custody and not on conditional release at the time of dismissal, the defendant shall be detained and sent to an evaluation and treatment facility for up to 120 hours if the defendant has not undergone competency restoration services or has engaged in outpatient competency restoration services and up to 72 hours if the defendant engaged in inpatient competency restoration services, excluding Saturdays, Sundays, and holidays, for evaluation for purposes of filing a petition under chapter 71.05 RCW. The 120-hour or 72-hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the 120-hour or 72-hour period.

(6) If the defendant is charged with a nonfelony crime that is not a serious offense as defined in RCW 10.77.092 and found by the court to be not competent, the court may stay or dismiss proceedings and detain the defendant for sufficient time to allow the designated crisis responder to evaluate the defendant and consider initial detention proceedings under chapter 71.05

RCW. The court must give notice to all parties at least 24 hours before the dismissal of any proceeding under this subsection, and provide an opportunity for a hearing on whether to dismiss the proceedings.

(7) If at any time the court dismisses charges under subsections (1) through (6) of this section, the court shall make a finding as to whether the defendant has a history of one or more violent acts. If the court so finds, the defendant is barred from the possession of firearms until a court restores his or her right to possess a firearm under RCW 9.41.047. The court shall state to the defendant and provide written notice that the defendant is barred from the possession of firearms and that the prohibition remains in effect until a court restores his or her right to possess a firearm under RCW 9.41.047.

(8) Any period of competency restoration treatment under this section includes only the time the defendant is actually at the facility or is actively participating in an outpatient competency restoration program and is in addition to reasonable time for transport to or from the facility.

NEW SECTION. Sec. 10. A new section is added to chapter 10.77 RCW to read as follows:

(1) In counties with a forensic navigator program, a forensic navigator shall:

(a) Meet, interview, and observe all defendants charged with a qualifying class C felony as defined in RCW 10.77.086(9) or a nonfelony who have had two or more competency evaluations in the preceding 24 months on separate charges or cause numbers and determine the defendants' willingness to engage with services under this section; and

(b) Provide a diversion program plan to the parties in each case that includes a recommendation for a diversion program to defense counsel and the prosecuting attorney. Services under a diversion program may include a referral for assisted outpatient treatment under chapter 71.05 RCW.

(2) If the parties agree on the diversion program recommended by the forensic navigator, the prosecutor shall request dismissal of the criminal charges.

(3)(a) For defendants charged with a nonfelony, if the parties do not agree on the diversion program, the defense may move the court for an order dismissing the criminal charges without prejudice and referring the defendant to the services described in the diversion program. The court shall hold a hearing on this motion within 10 days. The court shall grant the defense motion if it finds by a preponderance of the evidence that the defendant is amenable to the services described in the diversion program and can safely receive services in the community.

(b)(i) For defendants charged with a qualifying class C felony as defined in RCW 10.77.086, if the parties do not agree on the diversion program, the defense may move the court for an order referring the defendant for a 30-day trial period in the diversion program with periodic monitoring

reports provided to the court and parties. The court shall hold a hearing on this motion within 10 days. The court shall grant the motion if it finds by a preponderance of the evidence that the defendant is amenable to the services described in the diversion program and likely to engage in the program.

(ii) Following the 30-day trial period, if the court finds by a preponderance of the evidence that the defendant meaningfully engaged in the diversion program, the court shall dismiss the criminal charges without prejudice and refer the defendant to the services described in the diversion program.

(4) Individuals who receive a dismissal of charges and referral to services described in a diversion program shall have a forensic navigator assigned to assist them for up to six months while engaging in the services described in the diversion program. The forensic navigator shall provide monthly status updates to the parties regarding the individual's status in the diversion program.

(5) Forensic navigators shall collaborate with available *Trueblood* settlement diversion programs if they are accessible in the geographic location where criminal charges are currently filed.

**Sec. 11.** RCW 10.77.092 and 2014 c 10 s 2 are each amended to read as follows:

(1) For purposes of determining whether a court may authorize involuntary medication for the purpose of competency restoration pursuant to RCW 10.77.084 and for maintaining the level of restoration in the jail following the restoration period, a pending charge involving any one or more of the following crimes is a serious offense per se in the context of competency restoration:

(a) Any violent offense, sex offense, serious traffic offense, and most serious offense, as those terms are defined in RCW 9.94A.030;

(b) Any offense, except nonfelony counterfeiting offenses, included in crimes against persons in RCW 9.94A.411;

(c) Any offense contained in chapter 9.41 RCW (firearms and dangerous weapons);

(d) Any offense listed as domestic violence in RCW 10.99.020;

(e) Any offense listed as a harassment offense in chapter 9A.46 RCW, except for criminal trespass in the first or second degree;

(f) Any violation of chapter 69.50 RCW that is a class B felony; or

(g) Any city or county ordinance or statute that is equivalent to an offense referenced in this subsection.

(2) Anytime the secretary seeks a court order authorizing the involuntary medication for purposes of competency restoration pursuant to RCW 10.77.084, the secretary's petition must also seek authorization to continue involuntary medication for purposes of maintaining the level of restoration in the jail or juvenile detention facility following the restoration period.

(3)(a) In a particular case, a court may determine that a pending charge not otherwise defined as serious by state or federal law or by a city or county ordinance

is, nevertheless, a serious offense within the context of competency restoration treatment when the conduct in the charged offense falls within the standards established in (b) of this subsection.

(b) To determine that the particular case is a serious offense within the context of competency restoration, the court must consider the following factors and determine that one or more of the following factors creates a situation in which the offense is serious:

(i) The charge includes an allegation that the defendant actually inflicted bodily or emotional harm on another person or that the defendant created a reasonable apprehension of bodily or emotional harm to another;

(ii) The extent of the impact of the alleged offense on the basic human need for security of the citizens within the jurisdiction;

(iii) The number and nature of related charges pending against the defendant;

(iv) The length of potential confinement if the defendant is convicted; and

(v) The number of potential and actual victims or persons impacted by the defendant's alleged acts.

**NEW SECTION. Sec. 12.** A new section is added to chapter 10.77 RCW to read as follows:

(1) When an individual has a prescription for an antipsychotic, antidepressant, antiepileptic, or other drug prescribed to the individual to treat a serious mental illness by a state hospital or other state facility or a behavioral health agency or other certified medical provider, and the individual is medically stable on the drug, a jail or juvenile detention facility shall continue prescribing the prescribed drug and may not require the substitution of a different drug in a given therapeutic class, except under the following circumstances:

(a) The substitution is for a generic version of a name brand drug and the generic version is chemically identical to the name brand drug; or

(b) The drug cannot be prescribed for reasons of drug recall or removal from the market, or medical evidence indicating no therapeutic effect of the drug.

(2) This section includes but is not limited to situations in which the individual returns to a jail or juvenile detention facility directly after undergoing treatment at a state hospital, behavioral health agency, outpatient competency restoration program, or prison.

(3) The department shall establish a program to reimburse jails and juvenile detention facilities for the costs of any drugs the jail or juvenile detention facility does not otherwise have available and must continue prescribing under this section.

**NEW SECTION. Sec. 13.** A new section is added to chapter 10.77 RCW to read as follows:

(1) Following a competency evaluation under RCW 10.77.060, individuals who are found not competent to stand trial and not

restorable due to an intellectual or developmental disability, dementia, or traumatic brain injury, shall not be referred for competency restoration services unless the highest current criminal charge is a violent offense or sex offense as defined in RCW 9.94A.030. A defendant with a prior finding under this subsection may only be referred for competency restoration services if the highest charge under the new proceedings is a violent offense or sex offense as defined in RCW 9.94A.030.

(2) The department shall develop a process for connecting individuals who have been found not competent to stand trial due to an intellectual or developmental disability, dementia, or traumatic brain injury to available wraparound services and supports in community-based settings, which may include residential supports. The process shall include provisions for individuals who are current clients of the department's developmental disabilities administration or aging and long-term support administration and for individuals who are not current clients of the department.

(a) For current clients of the developmental disabilities administration and aging and long-term support administration, the department's assigned case manager shall:

(i) Coordinate with the individual's services providers to determine if the individual can return to the same or like services, or determine appropriate new community-based services. This shall include updating the individual's service plan and identifying and coordinating potential funding for any additional supports to stabilize the individual in community-based settings funded by the developmental disabilities administration or aging and long-term support administration so that the individual does not lose existing services, including submitting any exceptions to rule for additional services;

(ii) Conduct a current service eligibility assessment and send referral packets to all community-based service providers for services for which the individual is eligible; and

(iii) Connect with the individual's assigned forensic navigator and determine if the individual is eligible for any diversion, supportive housing, or case management programs as a *Trueblood* class member, and assist the individual to access these services.

(b) For individuals who have not established eligibility for the department's support services, the department shall:

(i) Conduct an eligibility determination for services and send referral packets to service providers for all relevant community-based services for which the individual is eligible. This process must include identifying and coordinating funding for any additional supports that are needed to stabilize the individual in any community-based setting funded by the developmental disabilities administration or aging and long-term support administration, including submitting any necessary exceptions to rule for additional services; and

(ii) Connect with the individual's assigned forensic navigator and determine if the individual is eligible for any diversion, supportive housing, or case management programs as a *Trueblood* class member, if additional specialized services are available to supplement diversion program services, and assist the individual to access these services.

(3) The department shall offer to transition the individual in services either directly from the jail or as soon thereafter as may be practicable, without maintaining the individual at an inpatient facility for longer than is clinically necessary. Nothing in this subsection prohibits the department from returning the individual to their home or to another less restrictive setting if such setting is appropriate, which may include provision of supportive services to help the person maintain stability. The individual is not required to accept developmental disabilities administration, aging and long-term support administration, or other diversionary services as a condition of having the individual's criminal case dismissed without prejudice, provided the individual meets the criteria of subsection (1) of this section.

(4) Subject to the availability of funds appropriated for this specific purpose, the department shall develop a program for individuals who have been involved with the criminal justice system and who have been found under RCW 10.77.084 as incompetent to stand trial and not restorable due to an intellectual or developmental disability, traumatic brain injury, or dementia and who do not meet criteria under other programs in this section. The program must involve wraparound services and housing supports appropriate to the needs of the individual. It is sufficient to meet the criteria for participation in this program if the individual has recently been the subject of criminal charges that were dismissed without prejudice and was found incompetent to stand trial due to an intellectual or developmental disability, traumatic brain injury, or dementia.

**NEW SECTION. Sec. 14.** The University of Washington shall implement a pilot project to provide short-term stabilization and transition support for individuals found incompetent to stand trial due to an intellectual or developmental disability who are or have been *Trueblood* class members. The project will be implemented in three phases, beginning December 1, 2023, using an interdisciplinary approach across various settings and overlapping with existing resources, including those available to *Trueblood* class members and services and supports they are eligible to receive from the department of social and health services. The department of social and health services shall collaborate with the University of Washington on this project, including assistance in identifying resources available to class members and determination of eligibility. By November 30, 2026, the University of Washington shall submit a report to the appropriate fiscal and policy committees of the legislature on

the pilot project, including the pilot project's outcomes, data analysis, evaluation, and recommendations for improvement. In addition, the University of Washington shall report on the background of current and former *Trueblood* class members with intellectual and developmental disabilities. The department of social and health services shall share data as needed to assist in report development.

**NEW SECTION. Sec. 15.** Subject to the availability of funds appropriated for this specific purpose, the health care authority shall require the programs it contracts with to increase compensation for staff in outpatient competency restoration programs to provide compensation at competitive levels to improve recruitment and allow for the full implementation of outpatient competency restoration programs.

**NEW SECTION. Sec. 16.** A new section is added to chapter 10.77 RCW to read as follows:

An outpatient competency restoration program must include access to a prescriber.

**NEW SECTION. Sec. 17.** A new section is added to chapter 10.77 RCW to read as follows:

(1) Subject to the security and background investigation requirements of the jail, jails shall allow clinical intervention specialists to have access to individuals who are referred to receive services under this chapter and to all records relating to the health or conduct of the individual while incarcerated. Clinical intervention specialists shall support jail health services in providing direct services, enhanced oversight and monitoring of the behavioral health status of participating individuals. Clinical intervention specialists shall work collaboratively with jail health services to ensure appropriate prescriptions, medication compliance monitoring, and access to supportive behavioral health services to the individuals. Clinical intervention specialists shall coordinate with forensic navigators and the department to assist forensic navigators in making recommendations for appropriate placements, which may include recommendations for participation in an outpatient competency restoration program or a diversion program designed for the needs of the individual. The clinical intervention specialist shall notify the department if a participating individual appears to have stabilized in their behavioral health such that a new competency evaluation is appropriate to reassess the individual's need for competency restoration treatment.

(2) The department shall establish a memorandum of understanding and any contracts needed with the jail to address the terms and conditions of allowing access to defendants and their records subject to the requirements of this section.

**NEW SECTION. Sec. 18.** A new section is added to chapter 10.77 RCW to read as follows:

The department shall collect data so that information can be retrieved based on unique individuals, their complete Washington criminal history and referrals for forensic services.

**NEW SECTION. Sec. 19.** A new section is added to chapter 10.77 RCW to read as follows:

(1) The department shall coordinate with cities, counties, hospitals, and other public and private entities to identify locations that may be commissioned or renovated for use in treating clients committed to the department for competency evaluation, competency restoration, civil conversion, or treatment following acquittal by reason of insanity.

(2) The department may provide capital grants to entities to accomplish the purposes described in subsection (1) of this section subject to provision of funding provided for this specific purpose.

**NEW SECTION. Sec. 20.** (1) By January 1, 2024, the health care authority shall implement a pilot project in phase one *Trueblood* settlement regions, by creating three behavioral health crisis systems regional coordinator positions in the Pierce, southwest, and Spokane behavioral health administrative services organization regions. The purpose of the pilot project is to support and assist key participants across the various local voluntary, involuntary, and forensic behavioral health systems to better understand the intersection of these systems, their essential role in and across the system, and how to effectively navigate impacted individuals to the best options based on their circumstances and needs, including by increasing the utilization of assisted outpatient treatment, outpatient competency restoration services, and diversion programs for people living with behavioral health conditions who are involved or likely to have involvement with the criminal legal system.

(2) In carrying out this pilot project, the behavioral health crisis systems regional coordinator shall familiarize themselves with key cross-system participants within the region, including but not limited to:

(a) Department of social and health services personnel and contractors, including those implementing the responsibilities outlined in chapter 10.77 RCW and Titles 71, 71A, and 74 RCW;

(b) Health care authority personnel and contractors, including those implementing the responsibilities outlined in chapter 10.77 RCW and Title 71 RCW;

(c) Behavioral health administrative services organization personnel and contractors implementing the functions outlined in RCW 71.24.045;

(d) Managed care organizations, including personnel implementing the responsibilities outlined in chapter 71.24 RCW and Title 74 RCW;

(e) Participants in the criminal legal system, including: Municipal, district, and superior court personnel; prosecutors; defense counsel representing people for whom there is a doubt as to competency; law enforcement agency personnel; and municipal and county jails;

(f) Local governments and tribal governments located within the region; and

(g) Community-based wraparound service providers, including housing and other supports for people involved in the behavioral health or criminal legal systems.

(3) The behavioral health crisis systems regional coordinators shall develop a robust understanding of the local voluntary, involuntary, and forensic behavioral health systems within the county or counties located within the behavioral health administrative services organization's region, including all system actors, policies, procedures, and programs across the state-operated and regional behavioral health, criminal legal, local government, and social services systems. The behavioral health crisis systems regional coordinators shall also:

(a) Identify challenges within these systems and develop strategies for improved coordination and access to services across systems;

(b) Work with local jurisdictions and the behavioral health administrative services organization, including the assisted outpatient treatment program coordinator established in RCW 71.24.045, to establish or improve assisted outpatient treatment programs, including increased utilization of assisted outpatient treatment for expanded populations;

(c) Work with local jurisdictions and the behavioral health administrative services organization to increase utilization of arrest and jail diversion programs;

(d) Work with local jurisdictions and the behavioral health administrative services organization to increase utilization of outpatient competency restoration program services; and

(e) Provide recommendations on statutory and regulatory changes needed to improve coordination and access to services across behavioral health systems to the joint legislative and executive committee on behavioral health established within the office of financial management in the omnibus appropriations act for the 2023-2025 biennium.

(4) By September 30, 2025, the health care authority shall provide a preliminary report to the appropriate fiscal and policy committees of the legislature on the progress and outcomes of the pilot project, including steps taken to address identified challenges and improve coordination and access to behavioral health services within each region, and steps taken to establish or improve access to, and expanded utilization of, assisted outpatient treatment, arrest and jail diversion program services, and outpatient competency restoration program services within each region. The report shall also include any recommended statutory changes that are needed to facilitate improved coordination and access to services across behavioral health systems. The

authority shall submit a final report by September 1, 2026.

(5) The health care authority, the department of social and health services, and regional managed care organizations shall provide the behavioral health crisis systems regional coordinators with any information that supports the systems improvement work of the behavioral health crisis systems regional coordinator.

(6) This section expires June 30, 2027.

**Sec. 21.** RCW 10.77.065 and 2019 c 325 s 5006 are each amended to read as follows:

(1)(a)(i) The expert conducting the evaluation shall provide his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated crisis responder, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)(iv) of this subsection. Upon request, the evaluator shall also provide copies of any source documents relevant to the evaluation to the designated crisis responder.

(iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication and an involuntary medication order by the court has not been entered.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the behavioral health administrative services organization, a professional person at the behavioral health administrative services organization to receive the report and recommendation.

(v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator of the name of the professional person, or person designated

under (a) (iv) of this subsection, to receive the report and recommendation.

(b) If the evaluator concludes, under RCW 10.77.060(3)(f), the person should be evaluated by a designated crisis responder under chapter 71.05 RCW, the court shall order such evaluation be conducted prior to release from confinement when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated crisis responder shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated crisis responder under subsection (2) of this section to the secretary.

(4) A facility conducting a civil commitment evaluation under RCW 10.77.086(~~((4))~~) (7) or 10.77.088(~~((1)(e))~~) (5)(b) that makes a determination to release the person instead of filing a civil commitment petition must provide written notice to the prosecutor and defense attorney at least twenty-four hours prior to release. The notice may be given by email, facsimile, or other means reasonably likely to communicate the information immediately.

(5) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

**Sec. 22.** RCW 71.05.280 and 2022 c 210 s 15 are each amended to read as follows:

At the expiration of the fourteen-day period of intensive treatment, a person may be committed for further treatment pursuant to RCW 71.05.320 if:

(1) Such person after having been taken into custody for evaluation and treatment has threatened, attempted, or inflicted: (a) Physical harm upon the person of another or himself or herself, or substantial damage upon the property of another, and (b) as a result of a behavioral health disorder presents a likelihood of serious harm; or

(2) Such person was taken into custody as a result of conduct in which he or she attempted or inflicted physical harm upon the person of another or himself or herself, or substantial damage upon the property of others, and continues to present, as a result of a behavioral health disorder, a likelihood of serious harm; or

(3) Such person has been determined to be incompetent and criminal charges have been dismissed pursuant to RCW 10.77.086(~~((4))~~) (7), and has committed acts constituting a felony, and as a result of a behavioral health disorder, presents a substantial likelihood of repeating similar acts.

(a) In any proceeding pursuant to this subsection it shall not be necessary to show intent, willfulness, or state of mind as an element of the crime;

(b) For any person subject to commitment under this subsection where the charge underlying the finding of incompetence is for a felony classified as violent under RCW 9.94A.030, the court shall determine whether the acts the person committed constitute a violent offense under RCW 9.94A.030; or

(4) Such person is gravely disabled.

**Sec. 23.** RCW 71.05.290 and 2022 c 210 s 16 are each amended to read as follows:

(1) At any time during a person's 14-day intensive treatment period, the professional person in charge of a treatment facility or his or her professional designee or the designated crisis responder may petition the superior court for an order requiring such person to undergo an additional period of treatment. Such petition must be based on one or more of the grounds set forth in RCW 71.05.280.

(2)(a)(i) The petition shall summarize the facts which support the need for further commitment and shall be supported by affidavits based on an examination of the patient and signed by:

(A) One physician, physician assistant, or psychiatric advanced registered nurse practitioner; and

(B) One physician, physician assistant, psychiatric advanced registered nurse practitioner, or mental health professional.

(ii) If the petition is for substance use disorder treatment, the petition may be signed by a substance use disorder professional instead of a mental health professional and by an advanced registered nurse practitioner instead of a psychiatric advanced registered nurse practitioner.

(b) The affidavits shall describe in detail the behavior of the detained person which supports the petition and shall explain what, if any, less restrictive treatments which are alternatives to detention are available to such person, and shall state the willingness of the affiant to testify to such facts in subsequent judicial proceedings under this chapter. If less restrictive alternative treatment is sought, the petition shall set forth any recommendations for less restrictive alternative treatment services.

(3) If a person has been determined to be incompetent pursuant to RCW 10.77.086(~~((4))~~) (7), then the professional person in charge of the treatment facility or his or her professional designee or the designated crisis responder may directly file a petition for 180-day treatment under RCW 71.05.280(3), or for 90-day treatment under RCW 71.05.280 (1), (2), or (4). No petition for initial detention or 14-day detention is required before such a petition may be filed.

**Sec. 24.** RCW 71.05.300 and 2020 c 302 s 43 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of

intensive treatment. The clerk shall set a trial setting date as provided in RCW 71.05.310 on the next judicial day after the date of filing the petition and notify the designated crisis responder. The designated crisis responder shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, the prosecuting attorney, and the behavioral health administrative services organization administrator, and provide a copy of the petition to such persons as soon as possible. The behavioral health administrative services organization administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) The attorney for the detained person shall advise him or her of his or her right to be represented by an attorney, his or her right to a jury trial, and, if the petition is for commitment for mental health treatment, his or her loss of firearm rights if involuntarily committed. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, physician assistant, psychiatric advanced registered nurse practitioner, psychologist, psychiatrist, or other professional person, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a person with a developmental disability who has been determined to be incompetent pursuant to RCW 10.77.086((4)) (7), the appointed professional person under this section shall be a developmental disabilities professional.

**Sec. 25.** RCW 71.05.425 and 2021 c 264 s 19 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086((4)) (7) to the following:

(i) The chief of police of the city, if any, in which the person will reside;

(ii) The sheriff of the county in which the person will reside; and

(iii) The prosecuting attorney of the county in which the criminal charges against the committed person were dismissed.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed

under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086((4)) (7):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086((4)) (7) preceding commitment under RCW 71.05.280(3) or 71.05.320(4)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings;

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(4)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086((4)) (7) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086((4)) (7) preceding commitment under RCW 71.05.280(3) or 71.05.320(4) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 70.02.230(2)(o). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department of social and health services learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department of social and health services by the requesting party. The requesting party shall furnish the department of social and health services with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 26.** RCW 71.09.025 and 2009 c 409 s 2 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020(~~((+16))~~), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.086(~~((+4))~~) (7); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with RCW 72.09.345(~~((+3))~~) (4), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the

filing of any action under this chapter to seek the issuance of compulsory process for the production of any records necessary for a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

**Sec. 27.** RCW 71.09.030 and 2009 c 409 s 3 are each amended to read as follows:

(1) A petition may be filed alleging that a person is a sexually violent predator and stating sufficient facts to support such allegation when it appears that: (a) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement; (b) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement; (c) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been released, pursuant to RCW 10.77.086(~~((+4))~~) (7); (d) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released, pursuant to RCW 10.77.020(3), 10.77.110 (1) or (3), or 10.77.150; or (e) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act.

(2) The petition may be filed by:

(a) The prosecuting attorney of a county in which:

(i) The person has been charged or convicted with a sexually violent offense;

(ii) A recent overt act occurred involving a person covered under subsection (1)(e) of this section; or

(iii) The person committed a recent overt act, or was charged or convicted of a criminal offense that would qualify as a recent overt act, if the only sexually violent offense charge or conviction occurred in a jurisdiction other than Washington; or

(b) The attorney general, if requested by the county prosecuting attorney identified in (a) of this subsection. If the county prosecuting attorney requests that the attorney general file and prosecute a case under this chapter, then the county shall charge the attorney general only the fees, including filing and jury fees, that would be charged and paid by the county



prosecuting attorney, if the county prosecuting attorney retained the case.

**Sec. 28.** RCW 71.09.060 and 2009 c 409 s 6 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(~~((+15)-(e))~~) (18) (c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to be or has

been released pursuant to RCW 10.77.086(~~((+4))~~) (7), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.086(~~((+4))~~) (7) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) Except as otherwise provided in this chapter, the state shall comply with RCW 10.77.220 while confining the person. During all court proceedings where the person is present, the person shall be detained in a secure facility. If the proceedings last more than one day, the person may be held in the county jail for the duration of the proceedings, except the person may be returned to the department's custody on weekends and court holidays if the court deems such a transfer feasible. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

**NEW SECTION. Sec. 29.** Sections 7 and 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 30.** (1) Section 7 of this act expires when section 8 of this act takes effect.

(2) The department of social and health services shall provide written notice of the expiration date of section 7 of this act 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.

NEW SECTION. **Sec. 31.** Section 13 of this act takes effect December 1, 2023.

NEW SECTION. **Sec. 32.** 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."

Correct the title.

Representatives Farivar and Walsh spoke in favor of the adoption of the striking amendment.

The striking amendment (688) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Farivar and Cheney spoke in favor of the passage of the bill.

Representatives Walsh and Graham spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5440, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5440, as amended by the House, and the bill passed the House by the following vote: Yeas, 61; Nays, 34; Absent, 0; Excused, 3

Voting Yea: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Cheney, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Hackney, Hansen, Kloba, Leavitt, Lekanoff, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Rude, Rule, Ryu, Schmick, 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, Christian, Connors, Corry, Couture, Dent, Dye, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Sandlin, Schmidt, Steele, Stokesbary, Volz, Walsh, Wilcox and Ybarra

Excused: Representatives Ortiz-Self, Santos and Waters

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5440, as amended by the House, having received the necessary constitutional majority, was declared passed.

**ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5536, by Senate Committee on Ways & Means (originally sponsored by Robinson, Lovick, Rolfes, Mullet, Dhingra, Billig, Hasegawa, Keiser, Kuderer, Liias, Lovelett, Nobles, Randall, Stanford, Wellman and Wilson, C.)**

**Concerning controlled substances, counterfeit substances, and legend drug possession and treatment.**

The bill was read the second time.

With the consent of the House, amendment (679) was withdrawn.

Representative Taylor moved the adoption of the striking amendment (664):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that substance use disorder is a treatable brain disease from which people can and do recover. When individuals in active addiction are provided with access to quality outreach, treatment, and recovery support services, recovery is not only possible, but probable. Solutions to the addiction crisis must not only address criminal legal responses, but must be data-driven and evidence-based, and must represent public health best practices, working directly with people who use drugs to prevent overdose and infectious disease transmission, and improve the physical, mental, and social well-being of those served. The state must follow principles of harm reduction, comprising practical strategies aimed at reducing negative consequences associated with drug use, including safer use of supplies as well as care settings, staffing, and interactions that are person-centered, supportive, and welcoming.

The legislature recognizes that substance use disorder is commonly treated in a variety of settings, including primary care, addiction medicine, mental health agencies, and substance use disorder treatment providers. Because medications such as buprenorphine and methadone are the clinical best practice for the treatment of opioid use disorder, individuals seeking treatment for addiction to heroin, fentanyl, and other opioids frequently seek recovery via primary care, addiction medicine, and opioid treatment programs.

The legislature finds that the process of recovery, as described by the national substance abuse and mental health administration, is highly personal and occurs via many pathways. It may include clinical treatment, medications, faith-based approaches, peer support, family support, self-care, and other approaches. Recovery is characterized by continual growth and improvement in one's health and wellness and managing setbacks. Because setbacks are a natural part of life, resilience becomes a key component of recovery.

The legislature finds that the recommendations of the substance use recovery services advisory committee reflect diligent work by individuals with a range of professional and personal experience, who brought that experience to the committee, and whose expertise is reflected in the recommendations.

**Part I - Prohibiting Knowing Possession of a Controlled Substance, Counterfeit Substance, or Legend Drug**

**Sec. 2.** RCW 69.50.4011 and 2003 c 53 s 332 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to ~~((create, deliver, or possess a counterfeit substance))~~:

(a) Create or deliver a counterfeit substance;

(b) Knowingly possess a counterfeit substance; or

(c) Knowingly possess and use a counterfeit substance in a public place by injection, inhalation, ingestion, or any other means.

(2) Any person who violates subsection (1)(a) of this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ~~((ten))~~10 years, fined not more than ~~((twenty-five thousand dollars))~~\$25,000, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ~~((ten))~~10 years, fined not more than ~~((twenty-five thousand dollars))~~\$25,000, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3)(a) A violation of subsection (1)(b) or (c) of this section is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(b) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(c) Upon arraignment for a violation of subsection (1)(b) or (c) of this section, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

(d) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

**Sec. 3.** RCW 69.50.4013 and 2022 c 16 s 86 are each amended to read as follows:

(1) ~~((It))~~ Except as otherwise authorized by this chapter, it is unlawful for any person to:

(a) Knowingly possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice ~~((, or except as otherwise authorized by this chapter))~~; or

(b) Knowingly possess and use a controlled substance in a public place by injection, inhalation, ingestion, or any other means, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(2)(a) Except as provided in RCW 69.50.4014 or 69.50.445, ~~((any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW))~~ a violation of subsection (1)(a) or (b) of this section is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(b) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(c) Upon arraignment for a violation of subsection (1)(a) or (b) of this section, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

(3)(a) The possession, by a person ~~((twenty-one))~~21 years of age or older, of useable cannabis, cannabis concentrates, or cannabis-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4) (a) The delivery by a person (~~(twenty-one)~~) 21 years of age or older to one or more persons (~~(twenty-one)~~) 21 years of age or older, during a single (~~(twenty-four)~~) 24 hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following cannabis products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

- (i) One-half ounce of useable cannabis;
- (ii) Eight ounces of cannabis-infused product in solid form;
- (iii) (~~(Thirty-six)~~) 36 ounces of cannabis-infused product in liquid form; or
- (iv) Three and one-half grams of cannabis concentrates.

(b) The act of delivering cannabis or a cannabis product as authorized under this subsection (4) must meet one of the following requirements:

- (i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or
- (ii) The cannabis or cannabis product must be in the original packaging as purchased from the cannabis retailer.

(5) No person under (~~(twenty-one)~~) 21 years of age may (~~(possess,)~~) manufacture, sell, (~~(or)~~) distribute, or knowingly possess cannabis, cannabis-infused products, or cannabis concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(6) The possession by a qualifying patient or designated provider of cannabis concentrates, useable cannabis, cannabis-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

(7) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

**Sec. 4.** RCW 69.50.4014 and 2022 c 16 s 88 are each amended to read as follows:

(1) Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of knowing possession of (~~(forty)~~) 40 grams or less of cannabis is guilty of a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(2) In lieu of jail booking and referral to the prosecutor, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the

recovery navigator program established under RCW 71.24.115.

(3) Upon arraignment for violation of this section, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

**Sec. 5.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to read as follows:

(1) It shall be unlawful for any person to sell(~~(or)~~)or deliver any legend drug, or knowingly possess any legend drug, or knowingly possess and use any legend drug in a public place by injection, inhalation, ingestion, or any other means, except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health

care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter 69.48 RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving knowing possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

(c) A violation of this section involving knowing possession and use in a public place is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589.

(d) In lieu of jail booking and referral to the prosecutor for a violation of this section involving knowing possession, or knowing possession and use in a public place, law enforcement is encouraged to offer a referral to assessment and services available under RCW 10.31.110 or other program or entity responsible for receiving referrals in lieu of legal system involvement, which may include, but are not limited to, arrest and jail alternative programs established under RCW 36.28A.450, law enforcement assisted diversion programs established under RCW 71.24.589, and the recovery navigator program established under RCW 71.24.115.

(e) Upon arraignment for a violation of this section involving knowing possession, or knowing possession and use in a public place, the court shall determine whether the defendant has been advised by the defendant's counsel about the pretrial diversion opportunity described in section 10 of this act.

(3) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

**Sec. 6.** RCW 69.50.509 and 1987 c 202 s 228 are each amended to read as follows:

If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, district court, or municipal court that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, knowingly possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him or her to search the premises designated and

described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.43 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the Washington state patrol bureau of forensic laboratory services shall aim to complete the necessary analysis for any evidence submitted for a suspected violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) within 45 days of receipt of the request for analysis.

The Washington state patrol bureau of forensic laboratory services' failure to comply with this section shall not constitute grounds for dismissal of a criminal charge.

## Part II - Relating to Drug Paraphernalia

**Sec. 8.** RCW 69.50.4121 and 2022 c 16 s 92 are each amended to read as follows:

(1) Every person who sells (~~(or gives,)~~) or permits to be sold (~~(or given)~~) to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, (~~(testing, analyzing,)~~) packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than cannabis. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

- (d) Smoking and carburetion masks;
- (e) Miniature cocaine spoons and cocaine vials;
- (f) Chamber pipes;
- (g) Carburetor pipes;
- (h) Electric pipes;
- (i) Air-driven pipes; and
- (j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits ~~((legal))~~ distribution ((of injection)) or use of public health supplies including, but not limited to, syringe equipment, smoking equipment, or drug testing equipment, through public health ((and)) programs, community-based HIV prevention programs, outreach, shelter, and housing programs, and pharmacies. Public health and syringe service program staff taking samples of substances and using drug testing equipment for the purpose of analyzing the composition of the substances or detecting the presence of certain substances are acting legally and are exempt from arrest and prosecution under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c).

**NEW SECTION. Sec. 9.** A new section is added to chapter 69.50 RCW to read as follows:

The state of Washington hereby fully occupies and preempts the entire field of drug paraphernalia regulation within the boundaries of the state including regulation of the use, selling, giving, delivery, and possession of drug paraphernalia. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to drug paraphernalia that are specifically authorized by state law and are consistent with this chapter. Such local ordinances must have the same penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law may not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

### **Part III - Providing Opportunities for Pretrial Diversion and Vacating Convictions**

**NEW SECTION. Sec. 10.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Nothing in this section prevents the defendant, with the consent of the prosecuting attorney as required by RCW 2.30.030, from seeking to resolve charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) through available therapeutic courts or other alternatives to prosecution. Nothing in this section prevents the defendant or the prosecuting attorney from seeking or agreeing to, or the court from ordering, any other resolution of charges or

terms of supervision that suit the circumstances of the defendant's situation and advance stabilization, recovery, crime reduction, and justice.

(2) Any defendant charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) may make a motion to participate in pretrial diversion and agree to waive his or her right to a speedy trial if the motion is granted, subject to the following:

(a) In any case where the defendant is only charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), and the defendant has not been convicted of any offenses committed after the effective date of this section, the court shall grant the motion, continue the hearing, and refer the defendant to an applicable program.

(b) In any case where the defendant does not meet the criteria described in (a) of this subsection, the court may grant the motion, continue the hearing, and refer the defendant to an applicable program.

(c) In all cases, the court may not grant the motion unless the prosecuting attorney consents to the defendant's participation in pretrial diversion. The prosecuting attorney is strongly encouraged to agree to diversion in any case where the defendant is only charged with a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), and in any case where the only additional charge or charges against the defendant are for other nonfelony offenses that are not crimes against persons.

(3) Prior to granting the defendant's motion to participate in pretrial diversion under this section, the court shall provide the defendant and the defendant's counsel with the following information:

(a) A full description of the procedures for pretrial diversion;

(b) A general explanation of the roles and authorities of the probation department, the prosecuting attorney, the applicable program, and the court in the process;

(c) A clear statement that the court may grant pretrial diversion with respect to any offense under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) that is charged, provided that the defendant pleads not guilty to the charge or charges and waives his or her right to a speedy trial, and that upon the defendant's successful completion of pretrial diversion, as specified in subsection (13) of this section, and motion of the defendant, prosecuting attorney, court, or probation department, the court must dismiss the charge or charges against the defendant;

(d) A clear statement that if the defendant has not made substantial progress with treatment or services provided that are appropriate to the defendant's circumstances or, if applicable, community service, the prosecuting attorney may make a motion to terminate pretrial diversion and schedule further proceedings as otherwise provided in this section;

(e) An explanation of criminal record retention and disposition resulting from participation in pretrial diversion and the defendant's rights relative to answering

questions about his or her arrest and pretrial diversion following successful completion;

(f) A clear statement that under federal law it is unlawful for any person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce; and

(g) A clear statement that if the defendant's biopsychosocial assessment results in a written report recommending no treatment or services, completion of pretrial diversion will instead be based on the defendant's completion of an amount of community service to be determined by the court, but not to exceed 120 hours of community service.

(4) The applicable program must make a written report to the court stating its findings and recommendations after the biopsychosocial assessment if the defendant decides to continue pursuing pretrial diversion. The report shall be filed under seal with the court, and a copy of the report shall be given to the prosecuting attorney, defendant, and defendant's counsel. The report and its copies are confidential and exempt from disclosure under chapter 42.56 RCW. The court shall endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

(5) Subject to the availability of funds appropriated for this specific purpose, the biopsychosocial assessment and recommended services or treatment must be provided at no cost for defendants who have been found to be indigent by the court.

(6) Once the biopsychosocial assessment has been filed with the court, if the report indicates the defendant has a substance use disorder, the court shall inform the defendant that under federal law the defendant may not possess any firearm or ammunition. The court shall thereafter sign an order of ineligibility to possess firearms as required by RCW 9.41.800 and shall require the defendant to surrender all firearms in accordance with RCW 9.41.804.

(7) If the report recommends any treatment or services, the applicable program shall provide the court with regular written status updates on the defendant's progress on a schedule acceptable to the court. The updates must be provided at least monthly and filed under seal with the court, with copies given to the prosecuting attorney, defendant, and defendant's counsel. The updates and their copies are confidential and exempt from disclosure under chapter 42.56 RCW. The court shall endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the defendant.

(8) If the report does not recommend any treatment or services, the defendant must instead complete an amount of community service as determined by the court, but not to exceed 120 hours of community service, in order to complete pretrial diversion.

(9) No statement, or any information procured therefrom relating to the charge for which the defendant is receiving services, made by the defendant to any treatment or service provider, that is made during the course of any biopsychosocial assessment or services provided by the applicable program, and before the reporting of the findings and recommendations to the court, may be admissible in any action or proceeding brought subsequent to the investigation.

(10) A defendant's participation in pretrial diversion under this section does not constitute a conviction, a stipulation to facts, or an admission of guilt for any purpose.

(11) At the time that pretrial diversion is granted, any bail bond on file by or on behalf of the defendant must be exonerated, and the court must enter an order so directing.

(12)(a) If it appears to the prosecuting attorney that the defendant is not substantially complying with the recommended treatment or services as reflected by a written status update from the applicable program, or, if applicable, the defendant is not completing the community service, the prosecuting attorney may make a motion for termination from pretrial diversion.

(b) After notice to the defendant, the court must hold a hearing to determine whether pretrial diversion shall be terminated.

(c) At the hearing, the court must consider the following factors:

(i) The nature of the alleged noncompliance;

(ii) Whether the defendant received written notice of the noncompliance;

(iii) Whether the noncompliance was willful in nature; and

(iv) Any other mitigating circumstances, including, but not limited to, the defendant's efforts and due diligence, the availability of services in the geographic area, and the treatment and services offered to the defendant.

(d) The defendant shall have the right to present evidence at the hearing, including the right to present a defense, present witnesses, and cross-examine any witnesses.

(e) The prosecutor has the burden of establishing by clear and convincing evidence that the noncompliance was willful, and that the defendant should be terminated from pretrial diversion.

(f) If the court finds that the defendant is not substantially complying with the recommended treatment or services or, if applicable, the defendant is not completing the community service, the court must schedule the matter for further proceedings.

(13) If the defendant successfully completes pretrial diversion, including in one of the following ways, the charge or charges under RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) must be dismissed:

(a) If the written report prepared by the applicable program included recommended treatment or services, the defendant successfully completes pretrial diversion by having six months of substantial compliance with assessment and recommended treatment or

services and progress toward recovery goals as reflected by a written status update from the applicable program; or

(b) If the written report prepared by the applicable program did not include recommended treatment or services, the defendant successfully completes pretrial diversion by completing the community service described under subsection (8) of this section and submitting proof of completion to the court.

(14) Beginning January 1, 2024, the prosecuting attorney shall input data and information in the statewide pretrial diversion tracking and reporting system under section 14 of this act for each case where the defendant participates in pretrial diversion under this section, including but not limited to the following:

(a) Whether the pretrial diversion was terminated, was successfully completed and resulted in a dismissal, or is still ongoing;

(b) The race, ethnicity, gender, gender expression or identity, disability status, and age of the defendant; and

(c) Any other appropriate data and information as determined by the administrative office of the courts.

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

(a) "Applicable program" means the recovery navigator program established under RCW 71.24.115, arrest and jail alternative programs established under RCW 36.28A.450, or law enforcement assisted diversion programs established under RCW 71.24.589.

(b) "Substantial compliance" means a defendant actively engaging with or making himself or herself available to treatment and services. The defendant is not in substantial compliance if he or she willfully abandons treatment and services.

**NEW SECTION. Sec. 11.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Prior to sentencing any person convicted of violating RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the court shall inform the person that under federal law it is unlawful for any person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(2) In courts of limited jurisdiction, if an individual who is convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) agrees as a condition of probation to obtain a biopsychosocial assessment by an applicable program and participate in any recommended treatment or services, or, if the applicable program recommends no treatment or services, to complete court-ordered community service, the court shall sentence the individual to a term of confinement of up to 90 days, all of which

shall be suspended for a period not to exceed two years.

(3) A biopsychosocial assessment shall be prepared by an applicable program. A copy of the assessment shall be forwarded to the court and filed under seal. Based on the assessment, the court shall determine whether the person shall be required to complete a course in an alcohol and drug information school licensed or certified by the department of health or more sustained services provided by a licensed behavioral health care provider, peer counseling program, or other case management program.

(a) Once the assessment has been filed with the court, if the report indicates the individual has a substance use disorder, the court shall inform the individual that under federal law the individual may not possess any firearm or ammunition. The court shall thereafter sign an order of ineligibility to possess firearms as required by RCW 9.41.800.

(b) Once the assessment has been filed with the court, if the report does not recommend any treatment or services, the court shall order the defendant to complete an amount of community service not to exceed 120 hours as a term of probation.

(c) The assessment shall include the following:

(i) Available background on the defendant's circumstances, barriers, and past service history, if any;

(ii) Nature of barriers and challenges;

(iii) Recommendations for services available in the individual's community that are likely to work with the individual and provide relevant support;

(iv) A statement of unavailability if there are no known suitable services presently available in the individual's community that would meaningfully assist the individual; and

(v) Approximate cost of the services if not publicly provided.

(4) A person subject to biopsychosocial assessment and treatment or services shall be required by the court to substantially comply with more sustained services provided by a licensed behavioral health care provider, peer counseling program, or other case management program, as determined by the court.

(5) If the court directs a service plan after receiving an individual's assessment, the applicable program must provide the court with regular written status updates on the individual's progress on a schedule acceptable to the court. The updates must be provided at least monthly and filed under seal with the court, with copies given to the prosecuting attorney, the individual, and the individual's counsel. The updates and their copies are confidential and exempt from disclosure under chapter 42.56 RCW. The court shall endeavor to avoid public discussion of the circumstances, history, or diagnoses that could stigmatize the individual.

(6) Subject to the availability of funds appropriated for this purpose, the recommended treatment or services as ordered by the court shall be provided at no cost for sentenced individuals who have been found to be indigent by the court.



(7) As a condition of probation, the sentenced individual must substantially comply with the treatment or services recommendations of the biopsychosocial assessment.

(8)(a) If it appears to the prosecuting attorney that the sentenced individual is not substantially complying with the recommended treatment or services as reflected by a written status update from the applicable program, or, if applicable, the individual is not completing the court-ordered community service, the prosecuting attorney shall make a motion for a hearing to consider sanctions. After notice to the sentenced individual, the court shall hold a hearing to determine if a sanction or revocation of the individual's suspended sentence, or any part thereof, is warranted under RCW 3.50.340 or 3.66.069.

(b) At the hearing, the court must consider the following factors:

(i) The nature of the alleged noncompliance;

(ii) Whether the individual received written notice of the noncompliance;

(iii) Whether the noncompliance was willful in nature; and

(iv) Any other mitigating circumstances, including, but not limited to, the individual's efforts and due diligence, the availability of services in the geographic area, and the treatment and services offered to the individual.

(c) The individual shall have the right to present evidence at the hearing, including the right to present a defense, present witnesses, and cross-examine any witnesses.

(d) The prosecutor has the burden of establishing by clear and convincing evidence that the noncompliance was willful, and that the individual should be sanctioned.

(e) The court may not sanction an individual for failing to comply with the recommended treatment or services if the court finds the sentenced individual has made reasonable efforts to comply with the recommended treatment but cannot comply either due to a lack of available treatment or services or, for sentenced individuals found to be indigent by the court, due to a lack of funding for treatment or services.

(f) At the hearing, if the court finds by a preponderance of the evidence that the sentenced individual has willfully abandoned or demonstrated a consistent failure to substantially comply with the recommended treatment or services, or, if applicable, is failing to complete the court-ordered community service, the court shall use its discretion in determining an appropriate sanction.

(9) An individual sentenced under subsection (2) of this section may vacate their conviction for a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) as follows:

(a) If the individual has six months of substantial compliance with assessment and recommended treatment or services and progress toward recovery goals as reflected by a written status update from the applicable program, or, if applicable, the

individual completes the court-ordered community service and files proof of completion with the court, the prosecutor shall make a motion to vacate the person's conviction or convictions and, upon verification of the written status update or the proof of completion of community service, the court shall terminate probation and enter an order vacating the individual's conviction; or

(b) If the individual has had no additional arrests, charges, or criminal convictions in the two years after the individual's conviction for a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the prosecutor shall make a motion to the court to vacate the individual's conviction, and the court shall terminate probation and enter an order vacating the individual's conviction.

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

(a) "Applicable program" means the recovery navigator program established under RCW 71.24.115, arrest and jail alternative programs established under RCW 36.28A.450, or law enforcement assisted diversion programs established under RCW 71.24.589.

(b) "Substantial compliance" means an individual actively engaging with or making himself or herself available to treatment and services. The individual is not in substantial compliance if he or she willfully abandons treatment and services.

**Sec. 12.** RCW 9.96.060 and 2022 c 16 s 7 are each amended to read as follows:

(1) When vacating a conviction under this section, the court effectuates the vacation by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) Every person convicted of a misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the requirements of this subsection, the court may in its discretion vacate the record of conviction. Except as provided in subsections (3), (4), ~~((and))~~ (5), and (6) of this section and section 11 of this act, an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) The applicant has not completed all of the terms of the sentence for the offense;

(b) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal or tribal court, at the time of application;

(c) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(d) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

(e) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses), except for failure to register as a sex offender under RCW 9A.44.132;

(f) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family or household member against another or by one intimate partner against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has two or more domestic violence convictions stemming from different incidents. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(g) For any offense other than those described in (f) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(h) The offender has been convicted of a new crime in this state, another state, or federal or tribal court in the three years prior to the vacation application; or

(i) The applicant is currently restrained by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains

one party from contacting the other party or was previously restrained by such an order and was found to have committed one or more violations of the order in the five years prior to the vacation application.

(3) If the applicant is a victim of sex trafficking, prostitution, or commercial sexual abuse of a minor; sexual assault; or domestic violence as defined in RCW 9.94A.030, or the prosecutor applies on behalf of the state, the sentencing court may vacate the record of conviction if the application satisfies the requirements of RCW 9.96.080. When preparing or filing the petition, the prosecutor is not deemed to be providing legal advice or legal assistance on behalf of the victim, but is fulfilling an administrative function on behalf of the state in order to further their responsibility to seek to reform and improve the administration of criminal justice. A record of conviction vacated using the process in RCW 9.96.080 is subject to subsections ~~((4) and)~~ (7) and (8) of this section.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5) Every person convicted of a misdemeanor cannabis offense, who was ~~((twenty-one))~~ 21 years of age or older at the time of the offense, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. A misdemeanor cannabis offense includes, but is not limited to: Any offense under RCW 69.50.4014, from July 1, 2004, onward, and its predecessor statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense under an equivalent municipal ordinance. If an applicant qualifies under this subsection, the court shall vacate the record of conviction.

((6)) (6) If a person convicted of violating RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) has had no additional criminal arrests, charges, or convictions in the two years after the person's conviction or convictions for violating RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), the prosecutor shall make a motion to vacate the individual's conviction or convictions, and the court shall grant the motion and enter an order vacating the individual's conviction or convictions.

(7) A person who is a family member of a homicide victim may apply to the sentencing court on the behalf of the victim for vacation of the victim's record of conviction for prostitution under RCW 9A.88.030. If an applicant qualifies under this subsection, the court shall vacate the victim's record of conviction.

((7)) (8)(a) Except as provided in (c) of this subsection, once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. However, nothing in this section affects the requirements for restoring a right to possess a firearm under RCW 9.41.040. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle (RCW 10.99.040, 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070, or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic violence protection order or vulnerable adult protection order entered under chapter 7.105 RCW. A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

(c) A conviction vacated on or after July 28, 2019, qualifies as a prior conviction for the purpose of charging a present recidivist offense as defined in RCW 9.94A.030 occurring on or after July 28, 2019.

((8)) (9) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

((9)) (10) For the purposes of this section, "cannabis" has the meaning provided in RCW 69.50.101.

NEW SECTION. Sec. 13. A new section is added to chapter 2.56 RCW to read as follows:

(1) The administrative office of the courts shall collect data and information related to the utilization and outcomes of pretrial diversions pursuant to section 11 of this act, convictions pursuant to section 11 of this act, and motions for vacating convictions pursuant to RCW 9.96.060(6), including but not limited to the following:

(a) The recidivism rate for persons who either participated in a pretrial diversion pursuant to section 10 of this act, or who were sentenced pursuant to section 11 of this act and agreed as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services;

(b) The number of pretrial diversions granted pursuant to section 10 of this act and whether such diversions were terminated, were successfully completed and resulted in a dismissal, or are still ongoing;

(c) The number of people convicted of a violation of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c);

(d) Statistical data comparing the sentences imposed pursuant to section 11 of this act, and the convictions vacated pursuant to RCW 9.96.060(6), in specific courts and in different regions of Washington;

(e) The number of charged violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, and 69.41.030(2) (b) or (c) involving repeat offenders; and

(f) The number of charged violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, and 69.41.030(2) (b) or (c) involving persons who previously participated in pretrial diversion pursuant to section 10 of this act, or who were previously sentenced pursuant to section 11 of this act and agreed as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services.

(2) Beginning January 1, 2024, the administrative office of the courts shall collect the following additional data and

information from the statewide pretrial diversion tracking and reporting system created under section 14 of this act:

(a) Aggregated and disaggregated demographic data for pretrial diversions under section 10 of this act, that identifies trends or disparities in utilization or outcomes based on race, ethnicity, gender, gender expression or identity, disability status, age, and any other appropriate characteristics as determined by the administrative office of the courts; and

(b) Statistical data comparing the relative utilization and outcomes of pretrial diversions pursuant to section 10 of this act in specific courts and in different regions of Washington.

(3) Beginning August 1, 2024, and on August 1st of every year thereafter, the administrative office of the courts shall submit an annual report to the legislature containing the data and information described in subsections (1) and (2) of this section.

(4) For the purposes of this section, "recidivism" means a person's subsequent conviction for any criminal offense within three years of the person successfully completing a pretrial diversion under section 10 of this act, or completing the terms of a sentence under section 11 of this act where the person agreed as a condition of probation to obtain a biopsychosocial assessment and participate in recommended treatment or services.

**NEW SECTION. Sec. 14.** A new section is added to chapter 2.56 RCW to read as follows:

(1) By January 1, 2024, subject to the availability of funds appropriated for this specific purpose, the administrative office of the courts shall establish and maintain a statewide pretrial diversion tracking and reporting system for pretrial diversions under section 10 of this act.

(2) The system must allow prosecuting attorneys to input data and information related to the utilization and outcomes of pretrial diversions under section 10 of this act, including but not limited to the following:

(a) Whether such diversions were terminated, were successfully completed and resulted in a dismissal, or are still ongoing;

(b) The race, ethnicity, gender, gender expression or identity, disability status, and age of defendants who participate in pretrial diversion; and

(c) Any other appropriate data and information as determined by the administrative office of the courts.

#### **Part IV - Opioid Treatment Rural Access and Expansion**

**Sec. 15.** RCW 36.70A.200 and 2021 c 265 s 2 are each amended to read as follows:

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public

facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, opioid treatment programs including both mobile and fixed-site medication units, recovery residences, harm reduction programs excluding safe injection sites, and inpatient facilities including substance ((abuse))use disorder treatment facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 ~~((4) or (15))~~ (7) or (16) or chapter 10.77 or 71.05 RCW.

(c) The department of children, youth, and families may not attempt to site new community facilities as defined in RCW 72.05.020 east of the crest of the Cascade mountain range unless there is an equal or greater number of sited community facilities as defined in RCW 72.05.020 on the western side of the crest of the Cascade mountain range.

(d) For the purpose of this section, "harm reduction programs" means programs that emphasize working directly with people who use drugs to prevent overdose and infectious disease transmission, improve the physical, mental, and social well-being of those served, and offer low threshold options for accessing substance use disorder treatment and other services.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70A.135.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

**Sec. 16.** RCW 71.24.589 and 2019 c 314 s 29 are each amended to read as follows:

(1) Subject to funds appropriated by the legislature, the authority shall ~~((implement a pilot project))~~ administer a grant program for law enforcement assisted diversion which shall adhere to law enforcement assisted diversion core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

(2) ~~((Under the pilot project, the))~~ The authority must partner with the law enforcement assisted diversion national support bureau to award ((a contract)) contracts, subject to appropriation, for ((two or more geographic areas)) jurisdictions in the state of Washington for law enforcement assisted diversion. Cities, counties, and tribes ((may compete for participation in a pilot project)), subdivisions thereof, public development authorities, and community-based organizations demonstrating support from necessary public partners, may serve as the lead agency applying for funding. Funds may be used to scale existing projects, and to invite additional jurisdictions to launch law enforcement assisted diversion programs.

(3) The ~~((pilot projects))~~ program must provide for securing comprehensive technical assistance from law enforcement assisted diversion implementation experts to develop and implement a law enforcement assisted diversion program ((in the pilot project's geographic areas)) in a way that ensures fidelity to the research-based law enforcement assisted diversion model. Sufficient funds must be allocated from grant program funds to secure technical assistance for the authority and for the implementing jurisdictions.

(4) The key elements of a law enforcement assisted diversion ~~((pilot project))~~ program must include:

(a) Long-term case management for individuals with substance use disorders;

(b) Facilitation and coordination with community resources focusing on overdose prevention;

(c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;

(d) Facilitation and coordination with community resources providing physical and behavioral health services;

(e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;

(f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;

(g) ~~((Twenty-four))~~ 24 hours per day and seven days per week response to law enforcement for arrest diversions; and

(h) Prosecutorial support for diversion services.

(5) No civil liability may be imposed by any court on the state or its officers or employees, an appointed or elected official, public employee, public agency as defined in RCW 4.24.470, combination of units of government and its employees as provided in RCW 36.28A.010, nonprofit community-based organization, tribal government entity, tribal organization, or urban Indian organization, based on the administration of a law enforcement assisted diversion program or activities carried out within the purview of a grant received under this program except upon proof of bad faith or gross negligence.

**Sec. 17.** RCW 71.24.590 and 2019 c 314 s 30 are each amended to read as follows:

(1) When making a decision on an application for licensing or certification of ~~((a))~~ an opioid treatment program, the department shall:

(a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;

(b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional use permits with reasonable conditions for the siting of programs only to the extent that such reasonable conditional use requirements applied to opioid treatment programs are similarly applied to other essential public facilities and health care settings. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;

(c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;

(d) Consider the size of the population in need of treatment in the area in which the program would be located and license or

certify only applicants whose programs meet the necessary treatment needs of that population;

(e) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;

(f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;

(g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature in RCW 71.24.585. The department shall prioritize licensing or certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes (~~+~~

~~(h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing)).~~

(2) ~~((A) No city or county legislative authority may impose a maximum capacity for ((a) an opioid treatment program ((of not less than three hundred fifty participants if necessary to address specific local conditions cited by the county)).~~

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

(4) Opioid treatment programs may order, possess, dispense, and administer medications approved by the United States food and drug administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. For an opioid treatment program to order, possess, and dispense any other legend drug, including controlled substances, the opioid treatment program must obtain additional licensure as required by the department, except for patient-owned medications.

(5) Opioid treatment programs may accept, possess, and administer patient-owned medications.

(6) Registered nurses and licensed practical nurses may dispense up to a ~~((thirty-one))~~ 31 day supply of medications approved by the United States food and drug administration for the treatment of opioid use disorder to patients of the opioid treatment program, under an order or prescription and in compliance with 42 C.F.R. Sec. 8.12.

(7) For the purpose of this chapter, "opioid treatment program" means a program that:

(a) Engages in the treatment of opioid use disorder with medications approved by

the United States food and drug administration for the treatment of opioid use disorder and reversal of opioid overdose, including methadone; and

(b) Provides a comprehensive range of medical and rehabilitative services.

(8) A mobile or fixed-site medication unit may be established as part of a licensed opioid treatment program.

NEW SECTION. Sec. 18. A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to funds appropriated for this specific purpose, a program is established in the department to fund the construction costs necessary to start up substance use disorder treatment and services programs and recovery housing in regions of the state that currently lack access to such programs.

(2) This funding must be used to increase the number of substance use disorder treatment and services programs and recovery housing in underserved areas such as central and eastern Washington and rural areas.

NEW SECTION. Sec. 19. RCW 10.31.115 (Drug possession—Referral to assessment and services) and 2021 c 311 s 13 are each repealed.

#### **Part V - Funding, Promotion, and Training for Recovery Residences**

NEW SECTION. Sec. 20. A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the authority shall:

(1) Make sufficient funding available to support establishment of an adequate and equitable stock of recovery residences in each region of the state;

(2) Establish a voucher program to allow accredited recovery housing operators to hold bed space for individuals who are waiting for treatment or who have returned to use and need a place to stay while negotiating a return to stable housing;

(3) Conduct outreach to underserved and rural areas to support the development of recovery housing, including adequate resources for women, LGBTQIA+ communities, Black, indigenous, and other people of color communities, immigrant communities, and youth; and

(4) Develop a training for housing providers by January 1, 2024, to assist them with providing appropriate service to LGBTQIA+ communities, Black, indigenous, and other people of color communities, and immigrant communities, including consideration of topics like harassment, communication, antiracism, diversity, and gender affirming behavior, and ensure applicants for grants or loans related to recovery residences receive access to the training.

Sec. 21. RCW 84.36.043 and 1998 c 174 s 1 are each amended to read as follows:

(1) The real and personal property used by a nonprofit organization in providing emergency or transitional housing for low-income homeless persons as defined in RCW 35.21.685 or 36.32.415 or victims of domestic violence who are homeless for personal safety reasons is exempt from taxation if:

(a) The charge, if any, for the housing does not exceed the actual cost of operating and maintaining the housing; and

(b)(i) The property is owned by the nonprofit organization; or

(ii) The property is rented or leased by the nonprofit organization and the benefit of the exemption inures to the nonprofit organization.

(2) The real and personal property used by a nonprofit organization in maintaining an approved recovery residence registered under RCW 41.05.760 is exempt from taxation if:

(a) The charge for the housing does not exceed the actual cost of operating and maintaining the housing; and

(b)(i) The property is owned by the nonprofit organization; or

(ii) The property is rented or leased by the nonprofit organization and the benefit of the exemption inures to the nonprofit organization.

(3) As used in this section:

(a) "Homeless" means persons, including families, who, on one particular day or night, do not have decent and safe shelter nor sufficient funds to purchase or rent a place to stay.

(b) "Emergency housing" means a project that provides housing and supportive services to homeless persons or families for up to sixty days.

(c) "Transitional housing" means a project that provides housing and supportive services to homeless persons or families for up to two years and that has as its purpose facilitating the movement of homeless persons and families into independent living.

((3-)) (d) "Recovery residence" has the same meaning as under RCW 41.05.760.

(4) The exemption in subsection (2) of this section applies to taxes levied for collection in calendar years 2024 through 2033.

(5) This exemption is subject to the administrative provisions contained in RCW 84.36.800 through 84.36.865.

#### NEW SECTION.

#### **Sec. 22.**

(1) This section is the tax preference performance statement for the tax preference contained in section 21, chapter . . . , Laws of 2023 (section 21 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808 (2) (e) .

(3) By exempting property used by nonprofit organizations maintaining approved recovery residences, it is the legislature's specific public policy objective to maximize funding for recovery residences to the extent possible, thereby increasing availability of such residences.

(4) To measure the effectiveness of the tax exemption provided in section 21 of this act in achieving the specific public policy objectives described in subsection (3) of this section, the joint legislative audit and review committee must evaluate:

(a) Annual changes in the total number of parcels qualifying for the exemption under section 21 of this act;

(b) The amount of annual property tax relief resulting from the tax exemption under section 21 of this act;

(c) The average annual number of people housed at recovery residences located on property qualifying for the exemption under section 21 of this act;

(d) The annualized amount charged for housing at recovery residences located on property qualifying for the exemption under section 21 of this act and the annualized estimated increase in the charge for housing if the properties had not been eligible for the exemption; and

(e) The annual amount of expenditures by nonprofits to maintain recovery residences located on property qualifying for the exemption under section 21 of this act.

(5) The legislature intends to extend the expiration date of the property tax exemption under section 21 of this act if the review by the joint legislative audit and review committee finds that:

(a) The number of properties qualifying for the exemption under section 21 of this act has increased;

(b) The number of individuals using recovery housing located on property qualifying for the exemption under section 21 of this act has increased; and

(c) The amount charged for recovery housing is reasonably consistent with the actual cost of operating and maintaining the housing.

(6) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to:

(a) Initial applications for the tax exemption under section 21 of this act as approved by the department of revenue under RCW 84.36.815;

(b) Annual financial statements prepared by nonprofit entities claiming the tax exemption under section 21 of this act;

(c) Filings with the federal government to maintain federal tax exempt status by nonprofit organizations claiming the tax exemption under section 21 of this act; and

(d) Any other data necessary for the evaluation under subsection (4) of this section.

**Part VI – Training for Parents of Children with Substance Use Disorder and Caseworkers Within the Department of Children, Youth, and Families**

**NEW SECTION. Sec. 23.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority, in consultation with the department of children, youth, and families, shall develop a training for parents of adolescents and transition age youth with substance use disorders by June 30, 2024, which training must build on and be consistent and compatible with existing training developed by the authority for families impacted by substance use disorder, and addressing the following:

(a) Science and education related to substance use disorders and recovery;

(b) Adaptive and functional communication strategies for communication with a loved one about their substance use disorder, including positive communication skills and strategies to influence motivation and behavioral change;

(c) Self-care and means of obtaining support;

(d) Means to obtain opioid overdose reversal medication when appropriate and instruction on proper use; and

(e) Suicide prevention.

(2) The authority and the department of children, youth, and families shall make this training publicly available, and the department of children, youth, and families must promote the training to licensed foster parents and caregivers, including any tribally licensed foster parents and tribal caregivers.

**NEW SECTION. Sec. 24.** A new section is added to chapter 43.216 RCW to read as follows:

The department shall provide opioid overdose reversal medication and training in the use of such medication to all department staff whose job duties require in-person service or case management for child welfare or juvenile rehabilitation clients.

## Part VII - Recovery Navigator Programs

**NEW SECTION. Sec. 25.** To support recovery navigator programs, the health care authority must develop and implement a data integration platform by June 30, 2024, to serve as a common database available for diversion efforts across the state, to serve as a data collection and management tool for practitioners, and to assist in standardizing definitions and practices. If possible, the health care authority must leverage and interact with existing platforms already in use in efforts funded by the authority. The health care authority must establish a quality assurance process for behavioral health administrative services organizations, and employ data validation for fields in the data collection workbook. The health care authority must engage and consult with the law enforcement assisted diversion national support bureau on data integration approaches, platforms, quality assurance protocols, and validation practices.

**NEW SECTION. Sec. 26.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall contract with the Washington state institute for public policy to conduct a study of the long-term effectiveness of the recovery navigator program under RCW 71.24.115 with reports due by June 30th in the years 2028, 2033, and 2038. The Washington state institute for public policy shall collaborate with the authority, the law enforcement assisted diversion national support bureau, and the substance use recovery services advisory committee under RCW 71.24.546 on the topic of data collection and to determine the parameters of the report, which shall include recommendations, if any, for modification and improvement of the recovery navigator program. The law enforcement assisted diversion national support bureau may supplement the report with additional recommendations to improve the recovery navigator program by enhancing its ability to provide a viable, accepted, community-based care alternative to jail and prosecution. The authority shall cooperate with the Washington state institute for public policy to provide data for this report.

(2) The authority shall establish an expedited preapproval process by August 1, 2023, which allows requests for the use of data to be forwarded to the Washington state institutional review board without delay when the request is made by the Washington state institute for public policy for the purpose of completing a study that has been directed by the legislature.

**Sec. 27.** RCW 71.24.115 and 2021 c 311 s 2 are each amended to read as follows:

(1) Each behavioral health administrative services organization shall establish ((a)) recovery navigator ((program))programs with the goal of providing law enforcement and other criminal legal system personnel with a credible alternative to further legal system involvement for criminal activity that stems from unmet behavioral health needs or poverty. The programs shall work to improve community health and safety by reducing individuals' involvement with the criminal legal system through the use of specific human services tools and in coordination with community input. Each program must include a dedicated project manager and be governed by a policy coordinating group comprised, in alignment with the core principles, of local executive and legislative officials, public safety agencies, including police and prosecutors, and civil rights, public defense, and human services organizations.

(2) The recovery navigator programs shall be organized on a scale that permits meaningful engagement, collaboration, and coordination with local law enforcement and municipal agencies through the policy coordinating groups. The ((program))programs shall provide community-based outreach, intake, assessment, and connection to services and, as appropriate, long-term intensive case management and recovery coaching services, to youth and adults with



substance use disorder, including for persons with co-occurring substance use disorders and mental health conditions, who are referred to the program from diverse sources and shall facilitate and coordinate connections to a broad range of community resources for youth and adults with substance use disorder, including treatment and recovery support services. Recovery navigator programs must serve and prioritize individuals who are actually or potentially exposed to the criminal legal system with respect to unlawful behavior connected to substance use or other behavioral health issues.

~~((2) The)~~ (3) By December 31, 2023, the authority shall ~~((establish))~~ revise its uniform program standards for behavioral health administrative services organizations to follow in the design of their recovery navigator programs to achieve fidelity with the core principles. The uniform program standards must be modeled upon the components of the law enforcement assisted diversion program and address project management, field engagement, biopsychosocial assessment, intensive case management and care coordination, stabilization housing when available and appropriate, and, as necessary, legal system coordination for participants' legal cases that may precede or follow referral to the program. The uniform program standards must incorporate the law enforcement assisted diversion framework for diversion at multiple points of engagement with the criminal legal system, including prearrest, prebooking, prefiling, and for ongoing case conferencing with law enforcement, prosecutors, community stakeholders, and program case managers. The authority must adopt the uniform program standards from the components of the law enforcement assisted diversion program to accommodate an expanded population of persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, ~~((and allow))~~ provide for referrals from a broad range of sources, and require prioritization of those who are or likely will be exposed to the criminal legal system related to their behavioral health challenges. In addition to accepting referrals from law enforcement and courts of limited jurisdiction, the uniform program standards must provide guidance for accepting referrals on behalf of persons with substance use disorders, including persons with co-occurring substance use disorders and mental health conditions, from various sources including, but not limited to, self-referral, family members of the individual, emergency department personnel, persons engaged with serving homeless persons, including those living unsheltered or in encampments, fire department personnel, emergency medical service personnel, community-based organizations, members of the business community, harm reduction program personnel, faith-based organization staff, and other sources within the criminal legal system, ~~((as outlined))~~ so that individuals are engaged as early as possible within the sequential intercept model. In developing response time requirements within the statewide program

standards, the authority shall require, subject to the availability of amounts appropriated for this specific purpose, that responses to referrals from law enforcement occur immediately for in-custody referrals and shall strive for rapid response times to other appropriate settings such as emergency departments and courts of limited jurisdiction.

~~((3))~~ (4) Subject to the availability of amounts appropriated for this specific purpose, the authority shall provide funding to each behavioral health administrative services organization for the ~~((development of its))~~ continuation of and, as required by this section, the revisions to and reorganization of the recovery navigator ((program)) programs they fund. Before receiving funding for implementation and ongoing administration, each behavioral health administrative services organization must submit a program plan that demonstrates the ability to fully comply with statewide program standards. The authority shall establish a schedule for the regular review of recovery navigator programs funded by behavioral health administrative services ((organizations' programs)) organizations. The authority shall arrange for technical assistance to be provided by the LEAD national support bureau to all behavioral health administrative services organizations, the authority, contracted providers, and independent stakeholders and partners, such as prosecuting attorneys and law enforcement.

~~((4))~~ (5) Each behavioral health administrative services organization must have a substance use disorder regional administrator for its recovery navigator program. The regional administrator shall be responsible for assuring compliance with program standards, including staffing standards. Each recovery navigator program must maintain a sufficient number of appropriately trained personnel for providing intake and referral services, conducting comprehensive biopsychosocial assessments, providing intensive case management services, and making warm handoffs to treatment and recovery support services along the continuum of care. Program staff must include people with lived experience with substance use disorder to the extent possible. The substance use disorder regional administrator must assure that staff who are conducting intake and referral services and field assessments are paid a livable and competitive wage and have appropriate initial training and receive continuing education.

~~((5))~~ (6) Each recovery navigator program must submit quarterly reports to the authority with information identified by the authority and the substance use recovery services advisory committee. The reports must be provided to the substance use recovery services advisory committee for discussion at meetings following the submission of the reports.

(7) (a) The criminal justice training commission, in consultation with the authority and other key stakeholders, shall conduct an assessment of the current status toward achieving the statewide implementation of recovery navigator

programs in fidelity with core principles. The assessment shall consider:

(i) The results of the law enforcement assisted diversion standards fidelity index analysis, conducted by an independent research scientist with expertise in law enforcement assisted diversion evaluation, including findings with respect to each standard assessed, for each recovery navigator program, in each behavioral health administrative services organization region;

(ii) Reports on utilization of technical support from the law enforcement assisted diversion national support bureau by recovery navigator program contractors, the authority, and behavioral health administrative services organizations; and

(iii) Barriers to achieving fidelity to core principles.

(b) By December 1, 2023, the criminal justice training commission shall submit to the governor and both chambers of the legislature a report of its findings and recommendations on administrative and legislative steps that will facilitate the achievement of the statewide adoption of recovery navigator programs operating in fidelity with core principles.

(8) No civil liability may be imposed by any court on the state or its officers or employees, an appointed or elected official, public employee, public agency as defined in RCW 4.24.470, combination of units of government and its employees as provided in RCW 36.28A.010, nonprofit community-based organization, tribal government entity, tribal organization, or urban Indian organization, based on the administration of a recovery navigator program except upon proof of bad faith or gross negligence.

(9) For the purposes of this section, the term "core principles" means the core principles of a law enforcement assisted diversion program, as established by the law enforcement assisted diversion national support bureau in its toolkit, as it existed on May 1, 2023.

#### **Part VIII - Establishing a Pilot Program for Health Engagement Hubs**

NEW SECTION. Sec. 28. A new section is added to chapter 71.24 RCW to read as follows:

(1)(a) The authority shall implement a pilot program for health engagement hubs by August 1, 2024. The pilot program will test the functionality and operability of health engagement hubs, including whether and how to incorporate and build on existing medical, harm reduction, treatment, and social services in order to create an all-in-one location where people who use drugs can access such services.

(b) Subject to amounts appropriated, the authority shall establish pilot programs on at least two sites, with one site located in an urban area and one located in a rural area.

(c) The authority shall report on the pilot program results, including recommendations for expansion, and rules and payment structures, to the legislature no later than August 1, 2026.

(2) A health engagement hub is intended to:

(a) Serve as an all-in-one location where people who use drugs can access a range of medical, harm reduction, treatment, and social services;

(b) Be affiliated with existing syringe service programs, federally qualified health centers, community health centers, overdose prevention sites, safe consumption sites, patient-centered medical homes, tribal behavioral health programs, peer run organizations such as clubhouses, services for unhoused people, supportive housing, and opioid treatment programs including mobile and fixed-site medication units established under an opioid treatment program, or other appropriate entity;

(c) Provide referrals or access to methadone and other medications for opioid use disorder;

(d) Function as a patient-centered medical home by offering high-quality, cost-effective patient-centered care, including wound care;

(e) Provide harm reduction services and supplies;

(f) Provide linkage to housing, transportation, and other support services; and

(g) Be open to youth as well as adults.

#### **Part IX - Education and Employment Pathways**

NEW SECTION. Sec. 29. A new section is added to chapter 71.24 RCW to read as follows:

Subject to funding provided for this specific purpose, the authority shall establish a grant program for providers of employment, education, training, certification, and other supportive programs designed to provide persons recovering from a substance use disorder with employment and education opportunities. The grant program shall employ a low-barrier application and give priority to programs that engage with black, indigenous, persons of color, and other historically underserved communities.

#### **Part X - Providing a Statewide Directory of Recovery Services**

NEW SECTION. Sec. 30. A new section is added to chapter 71.24 RCW to read as follows:

Subject to funding provided for this specific purpose, the authority must collaborate with the department and the department of social and health services to expand the Washington recovery helpline and the recovery readiness asset tool to provide a dynamically updated statewide behavioral health treatment and recovery support services mapping tool that includes a robust resource database for those seeking services and a referral system to be incorporated within the locator tool to help facilitate the connection between an individual and a facility that is currently accepting new referrals. The tool must include dual interface capability, one for public access and one for internal use and management.

**Part XI - Investing Adequately in Statewide Diversion Services**

NEW SECTION. **Sec. 31.** A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of funds appropriated for this specific purpose, the authority shall:

(1) Continue and expand efforts to provide opioid use disorder medication in city, county, regional, and tribal jails;

(2) Provide support funds to new and established recovery support services including clubhouses throughout the state;

(3) Award grants to an equivalent number of crisis services providers to the west and the east of the Cascade mountains, to establish and expand 23-hour crisis relief center capacity;

(4) Maintain a memorandum of understanding with the criminal justice training commission to provide ongoing funding for community grants pursuant to RCW 36.28A.450; and

(5) Provide ongoing grants to law enforcement assistant diversion programs under RCW 71.24.589.

**Part XII - Streamlining Substance Use Disorder Treatment Assessments**

NEW SECTION. **Sec. 32.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall convene a work group to recommend changes to systems, policies, and processes related to intake, screening, and assessment for substance use disorder services, with the goal to broaden the workforce capable of administering substance use disorder assessments and to make the assessment process as brief as possible, including only what is necessary to manage utilization and initiate care. The assessment shall be low barrier, person-centered, and amenable to administration in diverse health care settings and by a range of health care professionals. The assessment shall consider the person's self-identified needs and preferences when evaluating direction of treatment and may include different components based on the setting, context, and past experience with the client.

(2) The work group must include care providers, payors, people who use drugs, individuals in recovery from substance use disorder, and other individuals recommended by the authority. The work group shall present its recommendations to the governor and appropriate committees of the legislature by December 1, 2024.

**Sec. 33.** RCW 18.64.600 and 2020 c 244 s 2 are each amended to read as follows:

(1) The license of location for a pharmacy licensed under this chapter may be extended to a remote dispensing site where technology is used to dispense medications (~~approved by the United States food and drug administration~~) used for the treatment of opioid use disorder or its symptoms.

(2) In order for a pharmacy to use remote dispensing sites, a pharmacy must register each separate remote dispensing site with the commission.

(3) The commission shall adopt rules that establish minimum standards for remote dispensing sites registered under this section. The minimum standards shall address who may retrieve medications for opioid use disorder stored in or at a remote dispensing site pursuant to a valid prescription or chart order. The minimum standards must require the pharmacy be responsible for stocking and maintaining a perpetual inventory of the medications for opioid use disorder stored in or at the registered remote dispensing site. The dispensing technology may be owned by either the pharmacy or the registered remote dispensing site.

(4) The secretary may adopt rules to establish a reasonable fee for obtaining and renewing a registration issued under this section.

(5) The registration issued under this section will be considered as part of the pharmacy license issued under RCW 18.64.043. If the underlying pharmacy license is not active, then the registration shall be considered inoperable by operation of law.

**Part XIII - Miscellaneous Provisions**

NEW SECTION. **Sec. 34.** Section 7 of this act takes effect January 1, 2025.

**Sec. 35.** 2021 c 311 s 29 (uncodified) is amended to read as follows:

Sections 8 through 10(~~(7)~~) and 12(~~(7-15,~~ ~~and 16)~~) of this act expire July 1, 2023.

NEW SECTION. **Sec. 36.** Sections 2 through 6, 8 through 12, and 35 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2023.

NEW SECTION. **Sec. 37.** 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. 38.** 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."

Correct the title.

Representative Walsh moved the adoption of amendment (715) to the striking amendment (664):

On page 2, line 14 of the striking amendment, after "substance;" insert "or"

On page 2, beginning on line 15 of the striking amendment, after "substance" strike all material through "means" on line 17

On page 2, line 37 of the striking amendment, after "(1)(b)" strike "or (c)"

On page 3, line 15 of the striking amendment, after "(1)(b)" strike "or (c)"

On page 3, beginning on line 19 of the striking amendment, strike all of subsection (3)(d)

On page 3, beginning on line 25 of the striking amendment, after "person to" strike all material through "Knowingly" on line 26 and insert "knowingly"

On page 3, beginning on line 30 of the striking amendment, after "~~chapter~~")" strike all material through "practice" on line 35

On page 3, beginning on line 38 of the striking amendment, after "violation" strike all material through "(b)" on line 39

On page 4, line 16 of the striking amendment, after "violation" strike "of subsection (1)(a) or (b)"

On page 5, beginning on line 22 of the striking amendment, strike all of subsection (7)

On page 6, beginning on line 13 of the striking amendment, after "possess any legend drug" strike all material through "means," on line 15

On page 7, beginning on line 23 of the striking amendment, strike all of subsection (2)(c)

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

On page 7, beginning on line 32 of the striking amendment, after "possession," strike all material through "place," on line 33

On page 8, line 2 of the striking amendment, after "possession," strike "or knowing possession and use in a public place,"

On page 8, beginning on line 6 of the striking amendment, strike all of subsection (3)

On page 9, beginning on line 2 of the striking amendment, after "violation of" strike all material through "69.41.030(2)(b) or (c)" on line 3 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 10, beginning on line 13 of the striking amendment, after "prosecution under" strike all material through "(c)" on line 15 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 10, beginning on line 37 of the striking amendment, after "charges under" strike all material through "(c)" on page 11, line 1 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 11, beginning on line 8 of the striking amendment, after "violation of" strike all material through "69.41.030(2)(b) or (c)" and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 11, beginning on line 14 of the striking amendment, after "violation of" strike all material through "(c)" on line 15 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 11, beginning on line 27 of the striking amendment, after "violation of" strike all material through "(c)" on line 28 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 11, beginning on line 39 of the striking amendment, after "offense under" strike all material through "(c)" on line 40 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 14, beginning on line 27 of the striking amendment, after "RCW" strike all material through "(c)" on line 28 and insert "69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 15, beginning on line 25 of the striking amendment, after "violating" strike all material through "(c)" on line 27 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 15, beginning on line 34 of the striking amendment, after "violation of" strike all material through "(c)" on line 35 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 18, beginning on line 15 of the striking amendment, after "violation of" strike all material through "(b) or (c)" on line 16 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 18, beginning on line 30 of the striking amendment, after "violation of" strike all material through "(c)" on line 31 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 22, beginning on line 14 of the striking amendment, after "violating" strike all material through "(b) or (c)" on line 15 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 22, beginning on line 17 of the striking amendment, after "violating" strike all material through "(c)" on line 19 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 24, beginning on line 14 of the striking amendment, after "violation of" strike all material through "(c)" on line 16

and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 24, beginning on line 21 of the striking amendment, after "violations of" strike all material through "(b) or (c)" on line 22 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

On page 24, beginning on line 24 of the striking amendment, after "violations of" strike all material through "(b) or (c)" on line 25 and insert "RCW 69.50.4011(1)(b), 69.50.4013, 69.50.4014, or 69.41.030(2)(b)"

Representatives Walsh and Walsh (again) spoke in favor of the adoption of the amendment to the striking amendment.

Representative Goodman spoke against the adoption of the amendment to the striking amendment.

Amendment (715) to the striking amendment (664) was not adopted.

Representative Mosbrucker moved the adoption of amendment (713) to the striking amendment (664):

On page 2, line 37 of the striking amendment, after "(1)(b)" strike "or (c)"

On page 2, at the beginning of line 38 of the striking amendment, strike "a misdemeanor" and insert "a gross misdemeanor"

On page 3, line 6 of the striking amendment, after "(b)" insert "A violation of subsection (1)(c) of this section is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services through the recovery navigator program established under RCW 71.24.115 or a comparable program including, but not limited to, arrest and jail alternative programs established under RCW 36.28A.450 and law enforcement assisted diversion programs established under RCW 71.24.589."

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

On page 3, at the beginning of line 39 of the striking amendment, strike "or (b) of this section is a misdemeanor" and insert "of this section is a gross misdemeanor, and a violation of subsection (1)(b) of this section is a misdemeanor"

On page 15, line 34 of the striking amendment, after "violation of" strike "RCW 69.50.4011(1)(b) or (c), 69.50.4013," and insert "RCW 69.50.4011(1)(c), 69.50.4013(1)(b),"

On page 16, line 2 of the striking amendment, after "years." insert "In courts of limited jurisdiction, if an individual who is convicted of a violation of RCW 69.50.4011(1)(b) or 69.50.4013(1)(a) agrees as a condition of probation to obtain a biopsychosocial assessment by an applicable program and participate in any recommended treatment or services, or, if the applicable

program recommends no treatment or services, to complete court-ordered community service, the court shall sentence the individual to a term of confinement of up to 364 days, all of which shall be suspended for a period not to exceed two years."

Representatives Mosbrucker, Cheney, Maycumber and Mosbrucker (again) spoke in favor of the adoption of the amendment to the striking amendment.

Representatives Simmons and Goodman spoke against the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (713) to the striking amendment (664) and the amendment was not adopted by the following vote: Yeas, 44; Nays, 51; Absent, 0; Excused, 3

Voting Yea: Representatives Abbarno, Barkis, Barnard, Caldier, Chambers, Chandler, Chapman, Cheney, Christian, Connors, Corry, Couture, Dent, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Lekanoff, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Rule, Sandlin, Schmick, Schmidt, Shavers, Steele, Stokesbary, Timmons, Volz, Walsh, Wilcox and Ybarra

Voting Nay: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Kloba, Leavitt, Macri, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Ryu, Senn, Simmons, Slatte, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Walen, Wylic and Mme. Speaker

Excused: Representatives Ortiz-Self, Santos and Waters

Amendment (713) to the striking amendment (664) was not adopted.

Representative Walsh moved the adoption of amendment (714) to the striking amendment (664):

On page 10, line 6 of the striking amendment, after "syringe equipment" strike ", smoking equipment,"

Representatives Walsh and Goodman spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (714) to the striking amendment (664) was adopted.

Representative Eslick moved the adoption of amendment (718) to the striking amendment (664):

On page 12, beginning on line 25 of the striking amendment, after "services," strike all material through "service" on line 28 and insert "the defendant shall not be eligible to continue with pretrial diversion and the court must schedule the matter for further proceedings"

On page 13, beginning on line 21 of the striking amendment, after "defendant" strike all material through "diversion" on line 23 and insert "shall not be eligible to continue with pretrial diversion and the court must schedule the matter for further proceedings"

On page 13, beginning on line 40 of the striking amendment, after "program" strike

all material through "service" on page 14, line 1

On page 14, beginning on line 22 of the striking amendment, after "services" through all material through "service" on line 23

On page 14, beginning on line 25 of the striking amendment, after "diversion" strike all material through "court" on line 39 and insert "by having six months of substantial compliance with assessment and recommended treatment or services and progress toward recovery goals as reflected by a written status update from the applicable program, the court must dismiss the charge or charges under RCW 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)(b) or (c)"

On page 15, beginning on line 37 of the striking amendment, after "services" strike all material through "service" on line 39

On page 16, beginning on line 18 of the striking amendment, after "services, the" strike all material through "probation" on line 20 and insert "individual shall not be eligible to continue with the agreed condition of probation described in subsection (2) of this section, and the prosecutor must make a motion to modify the conditions of the individual's probation"

On page 17, beginning on line 17 of the striking amendment, after "program" strike all material through "service" on line 18

On page 18, beginning on line 11 of the striking amendment, after "services" strike all material through "service" on line 12

On page 18, beginning on line 21 of the striking amendment, after "program" strike all material through "court" on line 23

Representative Eslick spoke in favor of the adoption of the amendment to the striking amendment.

Representative Simmons spoke against the adoption of the amendment to the striking amendment.

Amendment (718) to the striking amendment (664) was not adopted.

Representative Cheney moved the adoption of amendment (705) to the striking amendment (664):

On page 12, line 29 of the striking amendment, after "(4)" insert "If the court grants the defendant's motion to participate in pretrial diversion, the defendant may waive his or her right to counsel during the diversion period. A defendant who waives his or her right to counsel may request to have counsel reappointed if the prosecuting attorney makes a motion for termination from pretrial diversion as described in subsection (13) of this section.  
(5)"

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

Representatives Cheney and Goodman spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (705) to the striking amendment (664) was adopted.

Representative Griffey moved the adoption of amendment (710) to the striking amendment (664):

On page 14, line 22 of the striking amendment, after "services" insert ", the defendant willfully abandoned treatment or services at any point prior to completion,"

Representative Griffey spoke in favor of the adoption of the amendment to the striking amendment.

Representative Taylor spoke against the adoption of the amendment to the striking amendment.

Amendment (710) to the striking amendment (664) was not adopted.

Representative Barnard moved the adoption of amendment (716) to the striking amendment (664):

On page 14, beginning on line 31 of the striking amendment, after "diversion by" strike all material through "program" on line 34 and insert "successfully completing all recommended treatment and services"

On page 18, beginning on line 18 of the striking amendment, after "individual" strike all material through "program" on line 21 and insert "successfully completes all recommended treatment and services"

Representatives Barnard, Jacobsen and Walsh spoke in favor of the adoption of the amendment to the striking amendment.

Representative Davis spoke against the adoption of the amendment to the striking amendment.

Amendment (716) to the striking amendment (664) was not adopted.

Representative Maycumber moved the adoption of amendment (679) to the striking amendment (664):

On page 15, beginning on line 19 of the striking amendment, after "defendant" strike all material through "services" on line 22 and insert "is complying with the essential requirements of the treatment and services, including, but not limited to, the following:

- (i) Attendance;
- (ii) Abstinence from the use or possession and use of controlled substances, counterfeit substances, and legend drugs;
- (iii) Active participation in treatment and services; and
- (iv) No subsequent arrests for criminal behavior"

On page 19, beginning on line 1 of the striking amendment, after "individual" strike all material through "services" on line 4 and insert "is complying with the essential requirements of the treatment and services, including, but not limited to, the following:

- (i) Attendance;

(ii) Abstention from use or possession and use of controlled substances, counterfeit substances, and legend drugs;

(iii) Active participation in treatment and services; and

(iv) No subsequent arrests for criminal behavior"

Representatives Maycumber, Barnard, Orcutt, Graham, Walsh and Christian spoke in favor of the adoption of the amendment to the striking amendment.

Representatives Simmons and Goodman spoke against the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (679) to the striking amendment (664) and the amendment was not adopted by the following vote: Yeas, 45; Nays, 50; Absent, 0; Excused, 3

Voting Yea: Representatives Abbarno, Barkis, Barnard, Caldier, Chambers, Chandler, 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, Rule, Sandlin, Schmick, Schmidt, Shavers, Steele, Stokesbary, Tharinger, Timmons, Volz, Walsh, Wilcox and Ybarra

Voting Nay: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chopp, Cortes, 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, Ryu, Senn, Simmons, Slatler, Springer, Stearns, Stonier, Street, Taylor, Thai, Walen, Wylie and Mme. Speaker

Excused: Representatives Ortiz-Self, Santos and Waters

Amendment (679) to the striking amendment (664) was not adopted.

Representative Graham moved the adoption of amendment (721) to the striking amendment (664):

On page 16, line 3 of the striking amendment, after "(3)" insert "In courts of limited jurisdiction, if an individual convicted of a violation of RCW 69.50.4011(1)(b) or (c), 69.50.4013, or 69.41.030(2)(b) or (c) where the legend drug is classified as schedule II substance under RCW 69.50.206 refuses to obtain a biopsychosocial assessment and participate in any recommended treatment or services as a condition of probation, the court shall sentence the individual to a term of imprisonment not less than 21 days.

(4)"

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

On page 18, beginning on line 12 of the striking amendment, after "shall" strike all material through "sanction" on line 13 and insert "reinstate a portion of the individual's suspended sentence as follows:

(i) For an individual's first instance of being sanctioned under this section, the court shall use its discretion in determining an appropriate amount of time of the individual's suspended sentence to

reinstate given the facts and circumstances of the particular case;

(ii) For an individual's second instance of being sanctioned under this section, the court shall reinstate no less than 21 days of the individual's suspended sentence; and

(iii) For an individual's third or subsequent instance of being sanctioned under this section, the court shall reinstate no less than 45 days of the individual's suspended sentence"

Representatives Graham and Jacobsen spoke in favor of the adoption of the amendment to the striking amendment.

Representative Simmons spoke against the adoption of the amendment to the striking amendment.

Amendment (721) to the striking amendment (664) was not adopted.

Representative Taylor moved the adoption of amendment (695) to the striking amendment (664):

On page 18, line 8 of the striking amendment, after "finds by" strike "a preponderance of the" and insert "clear and convincing"

Representative Taylor spoke in favor of the adoption of the amendment to the striking amendment.

Representative Cheney spoke against the adoption of the amendment to the striking amendment.

Division was demanded and the demand was sustained. The Speaker (Representative Orwall presiding) divided the House. The result was 56 - YEAS; 39 - NAYS.

Amendment (695) to the striking amendment (664) was adopted.

Representative Griffey moved the adoption of amendment (711) to the striking amendment (664):

On page 26, line 34 of the striking amendment, after "services." insert ""Harm reduction programs" do not include programs or activities that facilitate, promote, or otherwise condone the use of drugs."

Representative Griffey spoke in favor of the adoption of the amendment to the striking amendment.

Representative Davis spoke against the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (711) to the striking amendment (664) and the amendment was not adopted by the following vote: Yeas, 41; Nays, 54; Absent, 0; Excused, 3

Voting Yea: 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, Shavers, Steele, Stokesbary, Volz, Walsh, Wilcox and Ybarra

Voting Nay: 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, Reeves, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Walen, Wylie and Mme. Speaker  
Excused: Representatives Ortiz-Self, Santos and Waters

Amendment (711) to the striking amendment (664) was not adopted.

Representative Schmick moved the adoption of amendment (694) to the striking amendment (664):

On page 36, line 11 of the striking amendment, after "RCW 71.24.115" insert "and the law enforcement assisted diversion programs established under RCW 71.24.589"

On page 36, line 12 of the striking amendment, after "due by" strike "June 30th in the years 2028, 2033, and 2038" and insert "December 31st in the years 2024, 2026, and 2028"

On page 36, beginning on line 14 of the striking amendment, after "authority" strike all material through "bureau," on line 15

On page 36, beginning on line 19 of the striking amendment, after "program" strike all material through "bureau" on line 20 and insert "and the law enforcement assisted diversion model. The authority"

On page 36, line 21 of the striking amendment, after "program" insert "and the law enforcement assisted diversion programs"

On page 36, beginning on line 22 of the striking amendment, after "enhancing" strike all material through "alternative" on line 23 and insert "the ability of each to provide viable, accepted, community-based care alternatives, in both urban and rural communities,"

Representatives Schmick and Taylor spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (694) to the striking amendment (664) was adopted.

Representative Reeves moved the adoption of amendment (719) to the striking amendment (664):

On page 43, after line 36 of the striking amendment, insert the following:

**"Part XIII - Health Care Authority  
Comprehensive Data Reporting Requirements**

NEW SECTION. **Sec. 34.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority is responsible for providing regular assessments of the prevalence of substance use disorders and interactions of persons with substance use disorder with service providers, nonprofit service providers, first responders, health care facilities, and law enforcement agencies. Beginning in 2026, the annual report required in subsection (3)(a) of this section shall include a comprehensive assessment of the information described in this subsection for the prior calendar year.

(2)(a) The authority shall identify the types and sources of data necessary to implement the appropriate means and methods of gathering data to provide the information required in subsection (1) of this section.

(b) The authority must provide a preliminary inventory report to the governor and the legislature by December 1, 2023, and a final inventory report by December 1, 2024. The reports must:

(i) Identify existing types and sources of data available to the authority to provide the information required in subsection (1) of this section and what data are necessary but currently unavailable to the authority;

(ii) Include recommendations for new data connections, new data sharing authority, and sources of data that are necessary to provide the information required in subsection (1) of this section; and

(iii) Include recommendations, including any necessary legislation, regarding the development of reporting mechanisms between the authority and service providers, nonprofit service providers, health care facilities, law enforcement agencies, and other state agencies to gather the information required in subsection (1) of this section.

(3)(a) Beginning July 1, 2024, and each July 1st thereafter until July 1, 2028, the authority shall provide an implementation report to the governor and the legislature regarding recovery residences, recovery navigator programs, the health engagement pilot programs, and the law enforcement assisted diversion grants program. The report shall include:

(i) The number of contracts awarded to law enforcement assisted diversion programs, including the amount awarded in the contract, and the names and service locations of contract recipients;

(ii) The location of recovery residences, recovery navigator programs, health engagement hub pilot programs, and law enforcement assisted diversion programs;

(iii) The scope and nature of services provided by recovery navigator programs, health engagement hub pilot programs, and law enforcement assisted diversion programs;

(iv) The number of individuals served by recovery residences, recovery navigator programs, health engagement hub pilot programs, and law enforcement assisted diversion programs;

(v) If known, demographic data concerning the utilization of these services by overburdened and underrepresented communities; and

(vi) The number of grants awarded to providers of employment, education, training, certification, and other supportive programs, including the amount awarded in each grant and the names of provider grant recipients, as provided for in section 29 of this act.

(b) The data obtained by the authority under this section shall be integrated with the Washington state institute for public policy report under section 26 of this act.

(4) Beginning in the July 1, 2027, report in subsection (3)(a) of this section, the authority shall provide:



(a) The results and effectiveness of the authority's collaboration with the department of health and the department of social and health services to expand the Washington recovery helpline and recovery readiness asset tool to provide a dynamically updated statewide behavioral health treatment and recovery support services mapping tool, including the results and effectiveness with respect to overburdened and underrepresented communities, in accordance with section 30 of this act;

(b) The results and effectiveness of the authority's development and implementation of a data integration platform to support recovery navigator programs and to serve as a common database available for diversion efforts across the state, including the results and effectiveness with respect to overburdened and underrepresented communities, as provided in section 25 of this act;

(c) The effectiveness and outcomes of training developed and provided by the authority in consultation with the department of children, youth, and families, as provided in section 23 of the act; and

(d) The effectiveness and outcomes of training developed by the authority for housing providers, as provided in section 20(4) of the act."

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

On page 43, line 37 of the striking amendment, strike "**Part XIII**" and insert "**Part XIV**"

Representatives Reeves and Mosbrucker spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (719) to the striking amendment (664) was adopted.

Representative Graham moved the adoption of amendment (709) to the striking amendment (664):

On page 44, line 10 of the striking amendment, after "effect" strike "July 1, 2023" and insert "immediately"

Representatives Graham and Taylor spoke in favor of the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (709) to the striking amendment (664) and the amendment was adopted by the following vote: Yeas, 95; Nays, 0; Absent, 0; Excused, 3

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, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street,

Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Wilcox, Wylie, Ybarra and Mme. Speaker

Excused: Representatives Ortiz-Self, Santos and Waters

Amendment (709) to the striking amendment (664) was adopted.

Representative Cheney moved the adoption of amendment (712) to the striking amendment (664):

On page 44, after line 10 of the striking amendment, insert the following:

"NEW SECTION. Sec. 37. The changes in this act, including but not limited to those that will result in additional costs to municipal courts to offer and facilitate pretrial diversions for defendants charged with a violation of RCW 69.50.4011(1)(b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2)(b) or (c), constitute a new program or increased level of service on political subdivisions of the state, and the provisions of RCW 43.135.060 apply."

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

Representative Cheney spoke in favor of the adoption of the amendment to the striking amendment.

Representative Macri spoke against the adoption of the amendment to the striking amendment.

Amendment (712) to the striking amendment (664) was not adopted.

Representative Cheney moved the adoption of amendment (720) to the striking amendment (664):

On page 3, beginning on line 15 of the striking amendment, strike all of subsection (3)(c)

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

On page 4, beginning on line 16 of the striking amendment, strike all of subsection (2)(c)

On page 6, beginning on line 6 of the striking amendment, strike all of subsection (3)

On page 8, beginning on line 1 of the striking amendment, strike all of subsection (2)(e)

Representatives Cheney and Taylor spoke in favor of the adoption of the amendment to the striking amendment.

Amendment (720) to the striking amendment (664) was adopted.

Representative Maycumber moved the adoption of amendment (717) to the striking amendment (664):

On page 10, beginning on line 16 of the striking amendment, strike all of section 9

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

Representatives Maycumber and Walsh spoke in favor of the adoption of the amendment to the striking amendment.

Representative Simmons spoke against the adoption of the amendment to the striking amendment.

An electronic roll call was requested.

### ROLL CALL

The Clerk called the roll on the adoption of amendment (717) to the striking amendment (664) and the amendment was not adopted by the following vote: Yeas, 44; Nays, 51; Absent, 0; Excused, 3

Voting Yea: Representatives Abbarno, Barkis, Barnard, Caldier, Chambers, Chandler, Chapman, Cheney, Christian, Connors, Corry, Couture, Dent, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Low, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Paul, Robertson, Rude, Rule, Sandlin, Schmick, Schmidt, Shavers, Steele, Stokesbary, Timmons, Volz, Walsh, Wilcox and Ybarra

Voting Nay: Representatives Alvarado, Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chopp, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Farivar, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Kloba, Leavitt, Lekanoff, Macri, Mena, Morgan, Ormsby, Orwall, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Ryu, Senn, Simmons, Slatler, Springer, Stearns, Stonier, Street, Taylor, Thai, Tharinger, Walen, Wylie and Mme. Speaker

Excused: Representatives Ortiz-Self, Santos and Waters

Amendment (717) to the striking amendment (664) was not adopted.

Representatives Taylor and Mosbrucker spoke in favor of the adoption of the striking amendment as amended.

The striking amendment (664), as amended, was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Goodman, Davis, Stearns and Simmons spoke in favor of the passage of the bill.

Representatives Griffey, Christian, Jacobsen, McEntire, Maycumber, Mosbrucker and Eslick spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5536, as amended by the House.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5536, as amended by the House, and the bill passed the House by the following vote: Yeas, 54; Nays, 41; Absent, 0; Excused, 3

Voting Yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chandler, Chapman, Cheney, Cortes, Davis, Doglio, Donaghy, Duerr, Entenman, Fey, Fitzgibbon, Fosse, Goodman, Gregerson, Hackney, Hansen, Kloba, Leavitt, Lekanoff, Mena, Morgan, Ormsby, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Rude, Rule, Ryu, Senn, Shavers, Simmons, Slatler, Springer, Stearns, Stonier, Taylor, Thai, Tharinger, Timmons, Walen, Wylie and Mme. Speaker

Voting Nay: Representatives Abbarno, Alvarado, Barkis, Barnard, Caldier, Chambers, Chopp, Christian, Connors, Corry, Couture, Dent, Dye, Eslick, Farivar, Goehner, Graham, Griffey, Harris, Hutchins, Jacobsen, Klicker, Kretz, Low, Macri, Maycumber, McClintock, McEntire, Mosbrucker, Orcutt, Robertson, Sandlin, Schmick, Schmidt, Steele, Stokesbary, Street, Volz, Walsh, Wilcox and Ybarra

Excused: Representatives Ortiz-Self, Santos and Waters

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5536, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the House adjourned until 10:00 a.m., Wednesday, April 12, 2023, the 94th Day of the 2023 Regular Session.

Laurie Jinkins, Speaker

Bernard Dean, Chief Clerk

1013-S2	Speaker Signed. . . . .	19	Second Reading. . . . .	8
1032-S2	Messages. . . . .	19	Amendment Offered. . . . .	8
1046	Speaker Signed. . . . .	19	Third Reading Final Passage. . . . .	10
1085-S	Messages. . . . .	19	Other Action. . . . .	1
1122-S2	Speaker Signed. . . . .	19	5263-S2	Second Reading. . . . .
1171-S	Speaker Signed. . . . .	19	Third Reading Final Passage. . . . .	7
1177-S	Messages. . . . .	19	5280	Second Reading. . . . .
1204-S2	Speaker Signed. . . . .	19	Amendment Offered. . . . .	19-21
1237	Speaker Signed. . . . .	19	Third Reading Final Passage. . . . .	21
1251-S	Speaker Signed. . . . .	19	5287	Second Reading. . . . .
1329-S	Speaker Signed. . . . .	19	Third Reading Final Passage. . . . .	17
1334	Speaker Signed. . . . .	19	5301-S	Other Action. . . . .
1355-S	Messages. . . . .	19	5341	Second Reading. . . . .
1361-S	Messages. . . . .	19	Third Reading Final Passage. . . . .	17
1394-S	Speaker Signed. . . . .	19	5350	Other Action. . . . .
1406-S	Messages. . . . .	19	5353-S	Second Reading. . . . .
1469-S	Speaker Signed. . . . .	19	Third Reading Final Passage. . . . .	8
1501-S	Speaker Signed. . . . .	19	5371-S	Second Reading. . . . .
1577-S	Messages. . . . .	19	Amendment Offered. . . . .	2
1658-S	Messages. . . . .	19	Third Reading Final Passage. . . . .	3
1728-S2	Speaker Signed. . . . .	19	5374-S	Second Reading. . . . .
1763	Messages. . . . .	19	Third Reading Final Passage. . . . .	2
1846	Second Reading. . . . .	10	5386-S	Second Reading. . . . .
	Amendment Offered. . . . .	10	Third Reading Final Passage. . . . .	1
	Third Reading Final Passage. . . . .	14	5398-S	Other Action. . . . .
	Other Action. . . . .	1, 14	5412-S2	Other Action. . . . .
1855	Introduction & 1st Reading. . . . .	10	5425-S2	Second Reading. . . . .
5031	Second Reading. . . . .	1	Third Reading Final Passage. . . . .	16
	Amendment Offered. . . . .	1	5433-S	Second Reading. . . . .
	Third Reading Final Passage. . . . .	2	Third Reading Final Passage. . . . .	18
5058	Other Action. . . . .	19	5440-S2	Second Reading. . . . .
5104	Second Reading. . . . .	7	Amendment Offered. . . . .	21
	Amendment Offered. . . . .	7	Third Reading Final Passage. . . . .	42
	Third Reading Final Passage. . . . .	8	5447-S	Other Action. . . . .
5145-S	Second Reading. . . . .	17	5457	Second Reading. . . . .
	Third Reading Final Passage. . . . .	18	Third Reading Final Passage. . . . .	16
5182-S	Second Reading. . . . .	14	5536-S2	Second Reading. . . . .
	Amendment Offered. . . . .	14, 15	Amendment Offered. . . . .	42, 59, 61-66
	Third Reading Final Passage. . . . .	16	Third Reading Final Passage. . . . .	66
5191-S	Second Reading. . . . .	2	HOUSE OF REPRESENTATIVES (Representative Bronoske	
	Third Reading Final Passage. . . . .	2	presiding)	
5225-S2	Second Reading. . . . .	18	Statement for the Journal Representative McClintock. . . . .	7
	Amendment Offered. . . . .	18	Statement for the Journal Representative Mosbrucker. . . . .	7
	Third Reading Final Passage. . . . .	18	HOUSE OF REPRESENTATIVES (Representative Orwall	
5256-S			presiding) Point of Order	
			Representative Stonier Scope Amd #574. . . . .	21
			HOUSE OF REPRESENTATIVES (Representative Orwall	
			presiding) Speaker's Ruling	
			Scope Amd #574. . . . .	21