

FIFTY SEVENTH DAY

MORNING SESSION

Senate Chamber, Olympia
Monday, March 9, 2020

The Senate was called to order at 10:03 a.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Ericksen.

The Sergeant at Arms Color Guard consisting of Pages Miss Sophie Henderson and Mr. Logan Johnson, presented the Colors. Page Miss Kristin Sholberg led the Senate in the Pledge of Allegiance. The prayer was offered by Reverend Dr. Arthur C. Banks of Eastside Baptist Church, Tacoma.

MOTION

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

MOTION

On motion of Senator Kuderer, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

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

MESSAGES FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House has passed:
ENGROSSED SENATE BILL NO. 6032,
and the same is herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

March 7, 2020

MR. PRESIDENT:

The House has passed:
SUBSTITUTE HOUSE BILL NO. 1808,
HOUSE BILL NO. 2505,
HOUSE BILL NO. 2943,
SUBSTITUTE HOUSE BILL NO. 2950,
and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

March 7, 2020

MR. PRESIDENT:

The Speaker has signed:
HOUSE BILL NO. 1702,
HOUSE BILL NO. 2217,
SECOND SUBSTITUTE HOUSE BILL NO. 2277,
SUBSTITUTE HOUSE BILL NO. 2308,
ENGROSSED SECOND SUBSTITUTE

HOUSE BILL NO. 2311,
SUBSTITUTE HOUSE BILL NO. 2419,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2455,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2467,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2518,
SUBSTITUTE HOUSE BILL NO. 2607,
SUBSTITUTE HOUSE BILL NO. 2803,
HOUSE BILL NO. 2853,
SECOND SUBSTITUTE HOUSE BILL NO. 2864,
and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

March 7, 2020

MR. PRESIDENT:

The House has passed:
SENATE BILL NO. 6049,
SUBSTITUTE SENATE BILL NO. 6632,
and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

March 7, 2020

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1251,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1622,
ENGROSSED HOUSE BILL NO. 1694,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1754,
ENGROSSED HOUSE BILL NO. 2040,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2099,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2231,
HOUSE BILL NO. 2315,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2318,
SUBSTITUTE HOUSE BILL NO. 2343,
SUBSTITUTE HOUSE BILL NO. 2384,
HOUSE BILL NO. 2402,
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2405,
HOUSE BILL NO. 2449,
HOUSE BILL NO. 2497,
HOUSE BILL NO. 2524,
SUBSTITUTE HOUSE BILL NO. 2527,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2535,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2565,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2588,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2638,
HOUSE BILL NO. 2701,

and the same are herewith transmitted.
MELISSA PALMER, Deputy Chief Clerk

MOTION

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

MOTION

Senator Schoesler moved adoption of the following resolution:

SENATE RESOLUTION
8709

By Senators Schoesler, Rivers, Wagoner, Muzzall, Warnick, Holy, Walsh, Ericksen, Padden, Hobbs, Conway, Van De Wege, Hasegawa, King, Honeyford, Brown, McCoy, Short, Sheldon, Billig, Cleveland, Das, and Fortunato

WHEREAS, Ronald Main served our country ably in the Army during the Vietnam War era; and

WHEREAS, Ronald Main began his lobbying career by representing the interests of King County citizens; and

WHEREAS, Ronald Main was a valuable member of the capitol community for nearly four decades; and

WHEREAS, Ronald Main was a paragon of decorum and integrity in all of his dealings with legislators and staff; and

WHEREAS, Ronald Main was the only lobbyist in Washington State history to successfully call for "division" in the Senate from the gallery (and prevail); and

WHEREAS, Ronald Main was so respected by his peers and colleagues that he earned the nickname "Ronfather"; and

WHEREAS, Ronald Main passed away on January 25th in Everett, Washington;

NOW, THEREFORE, BE IT RESOLVED, That it be proclaimed that it is the will of the Washington State Senate to honor Ronald Main on this day; and that the sincere condolences of this body be extended to his family.

Senators Schoesler, Sheldon, Hobbs, Conway and Carlyle spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8709.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family, friends, and colleagues of Mr. Ron Main, including: Mrs. Sally Main, wife; and Mr. Main's siblings: Mr. & Mrs. Randy and Reta Kendall, Lisa, Walt, and Bonnie who were seated in the gallery.

MOTION

On motion of Senator Liias and without objection, the measures listed on the document entitled "Bill Disposition List" were removed from the Consideration Calendars and referred to the Committee on Rules as designated:

The following measures were removed from the 2nd Reading Calendar and placed in the Committee's "X" file:

SUBSTITUTE HOUSE BILL NO. 1009;
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO.1272;
SECOND ENGROSSED SUBSTITUTE
HOUSE BILL NO. 1332;
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1813;
HOUSE BILL NO. 1983;
HOUSE BILL NO. 2013;
ENGROSSED SECOND SUBSTITUTE
HOUSE BILL NO. 2050;
HOUSE BILL NO. 2110;
ENGROSSED HOUSE BILL NO. 2166;
HOUSE BILL NO. 2242;
SUBSTITUTE HOUSE BILL NO. 2244;
SUBSTITUTE HOUSE BILL NO. 2287;
HOUSE BILL NO. 2305;

SUBSTITUTE HOUSE BILL NO. 2353;
ENGROSSED HOUSE BILL NO. 2501;
HOUSE BILL NO. 2542;
HOUSE BILL NO. 2596;
ENGROSSED HOUSE BILL NO. 2610;
ENGROSSED HOUSE BILL NO. 2623;
HOUSE BILL NO. 2664;
SUBSTITUTE HOUSE BILL NO. 2714;
SUBSTITUTE HOUSE BILL NO. 2768;
SUBSTITUTE HOUSE BILL NO. 2772;
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2775;
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2890;
HOUSE JOINT MEMORIAL NO. 4016;
SUBSTITUTE SENATE BILL NO. 6601;
and SUBSTITUTE SENATE BILL NO. 6606.

The following were removed from the 2nd Reading Calendar and placed in the Committee's "X" file:

SUBSTITUTE HOUSE BILL NO. 1255;
HOUSE BILL NO. 2850;
and ENGROSSED SUBSTITUTE HOUSE BILL NO. 2879.

The following was removed from the 3rd Reading Calendar and placed in the Committee's "X" file:

ENGROSSED HOUSE BILL NO. 2008.

MOTION

At 10:22 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

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

AFTERNOON SESSION

The Senate was called to order at 12:16 p.m. by President Habib.

MOTION

On motion of Senator Liias, the Senate reverted to the seventh order of business.

THIRD READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Zeiger moved that Brett W. Willis, Senate Gubernatorial Appointment No. 9228, be confirmed as a member of the Pierce College Board of Trustees.

Senator Zeiger spoke in favor of the motion.

MOTION

On motion of Senator Rivers, Senator Ericksen was excused.

APPOINTMENT OF BRETT W. WILLIS

The President declared the question before the Senate to be the confirmation of Brett W. Willis, Senate Gubernatorial Appointment No. 9228, as a member of the Pierce College Board of Trustees.

The Secretary called the roll on the confirmation of Brett W. Willis, Senate Gubernatorial Appointment No. 9228, as a member of the Pierce College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Absent: Senator Sheldon
Excused: Senator Ericksen

Brett W. Willis, Senate Gubernatorial Appointment No. 9228, having received the constitutional majority was declared confirmed as a member of the Pierce College Board of Trustees.

MOTION

On motion of Senator Padden, Senator Sheldon was excused.

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Walsh moved that William W. Warren, Senate Gubernatorial Appointment No. 9250, be confirmed as a member of the Walla Walla Community College Board of Trustees.

Senator Walsh spoke in favor of the motion.

APPOINTMENT OF WILLIAM W. WARREN

The President declared the question before the Senate to be the confirmation of William W. Warren, Senate Gubernatorial Appointment No. 9250, as a member of the Walla Walla Community College Board of Trustees.

The Secretary called the roll on the confirmation of William W. Warren, Senate Gubernatorial Appointment No. 9250, as a member of the Walla Walla Community College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

William W. Warren, Senate Gubernatorial Appointment No. 9250, having received the constitutional majority was declared confirmed as a member of the Walla Walla Community College Board of Trustees.

MOTION

On motion of Senator Liias, the Senate reverted to the sixth

order of business.

SECOND READING

HOUSE BILL NO. 1368, by Representatives Springer, Kretz, Riccelli, Orcutt, Goodman, Maycumber, Wylie, Dent, Steele and Doglio

Reauthorizing the business and occupation tax deduction for cooperative finance organizations.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter . . ., Laws of 2020 (section 2 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) It is the legislature's specific public policy objective to reduce the tax burden on individuals and businesses imposed by the existing business and occupation tax rates.

(4) If the review finds that at least one cooperative finance organization in this state used the deduction, then the legislature intends to extend the expiration date of this tax deduction.

(5) 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 any data collected by the state.

NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of tax, amounts received by a cooperative finance organization where the amounts are derived from loans to rural electric cooperatives or other nonprofit or governmental providers of utility services organized under the laws of this state.

(2) For the purposes of this section, the following definitions apply:

(a) "Cooperative finance organization" means a nonprofit organization with the primary purpose of providing, securing, or otherwise arranging financing for rural electric cooperatives.

(b) "Rural electric cooperative" means a nonprofit, customer-owned organization that provides utility services to rural areas.

(3) This section expires January 1, 2030.

NEW SECTION. Sec. 3. This act takes effect July 1, 2020."

On page 1, line 2 of the title, after "organizations;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and providing an expiration date."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 1368.

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

MOTION

On motion of Senator Carlyle, the rules were suspended, House Bill No. 1368 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carlyle spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1368 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1368 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

HOUSE BILL NO. 1368, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

THIRD READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Lovelett moved that Kathryn A. Bennett, Senate Gubernatorial Appointment No. 9251, be confirmed as a member of the Skagit Valley College Board of Trustees.

Senator Lovelett spoke in favor of the motion.

APPOINTMENT OF KATHRYN A. BENNETT

The President declared the question before the Senate to be the confirmation of Kathryn A. Bennett, Senate Gubernatorial Appointment No. 9251, as a member of the Skagit Valley College Board of Trustees.

The Secretary called the roll on the confirmation of Kathryn A. Bennett, Senate Gubernatorial Appointment No. 9251, as a member of the Skagit Valley College Board of Trustees and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes,

Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

Kathryn A. Bennett, Senate Gubernatorial Appointment No. 9251, having received the constitutional majority was declared confirmed as a member of the Skagit Valley College Board of Trustees.

MOTION

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

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2870, by House Committee on Appropriations (originally sponsored by Pettigrew and Ryu)

Allowing additional marijuana retail licenses for social equity purposes. Revised for 2nd Substitute: (REVISED FOR ENGROSSED: Allowing the issuance and reissuance of marijuana retail licenses under the social equity program.)

The measure was read the second time.

MOTION

Senator Saldaña moved that the following committee striking amendment by the Committee on Labor & Commerce be not adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 69.50 RCW to read as follows:

(1) A study group on social equity in marijuana is established. The purpose of the study group is to make recommendations to the legislature, governor, and board including but not limited to establishing a social equity program for retail marijuana licensing, and to advise the governor and the legislature on policies that will facilitate development of a marijuana social equity program.

(2) The governor shall appoint:

(a) One member from each of the following:

(i) The commission on African American affairs;

(ii) The commission on Hispanic affairs;

(iii) An organization representing the African American community;

(iv) An organization representing the Latinx community;

(v) The liquor and cannabis board;

(vi) The department of commerce;

(vii) The office of the attorney general; and

(viii) The association of Washington cities; and

(b) Three members that currently hold a marijuana retail license.

(3) In addition to the members appointed to the study group under subsection (2) of this section, individuals representing other sectors may be invited by the governor to participate in an advisory capacity in meetings.

(a) Individuals participating in an advisory capacity under this subsection are not members of the study group, may not vote, and are not subject to the appointment process established in this section.

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(b) There is no limit to the number of individuals who may participate in study group's meetings in an advisory capacity under this subsection.

(c) A majority of the study group members constitutes a quorum. If a member has not been designated for a position set forth in this section, that position may not be counted for the purpose of determining a quorum.

(4) The study group shall hold its first meeting by July 1, 2020 and shall elect a chair from among its members at the first meeting by a majority vote of the members who are present at the meeting. The chair of the study group is responsible for arranging subsequent meetings and developing meeting agendas.

(5) Staff support for the study group, including arranging the first meeting and assisting the chair in arranging subsequent meetings, must be provided by the office of the governor.

(6) The expenses of the study group must be paid by the office of the governor.

(7) Members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement is subject to chapter 43.03 RCW.

(8) The study group is a class one group under chapter 43.03 RCW.

(9) A public comment period must be provided at every meeting.

(10) The study group shall submit a report on recommended policies that will facilitate the development of a marijuana social equity program in Washington to the governor and the appropriate committees of the legislature by December 1, 2020. The recommendations must include whether any additional marijuana licenses should be issued beyond the total number of marijuana licenses that have been issued as of the effective date of this section.

(11) This section expires June 30, 2021.

The President declared the question before the Senate to be to not adopt the committee striking amendment by the Committee on Labor & Commerce to Engrossed Second Substitute House Bill No. 2870.

The motion by Senator Saldaña carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Saldaña moved that the following striking floor amendment no. 1353 by Senator Saldaña be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that additional efforts are necessary to reduce barriers to entry to the cannabis industry for individuals and communities most adversely impacted by the enforcement of cannabis-related laws. In the interest of establishing a cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of drug-related laws, including cannabis-related laws, the legislature finds a social equity program should be created.

(2) The legislature finds that individuals who have been arrested or incarcerated due to drug laws, and those who have resided in areas of high poverty, suffer long-lasting adverse consequences, including impacts to employment, business ownership, housing, health, and long-term financial well-being. The legislature also finds that family members, especially children, and communities of those who have been arrested or

incarcerated due to drug laws, suffer from emotional, psychological, and financial harms as a result of such arrests and incarceration. The legislature further finds that individuals in disproportionately impacted areas suffered the harms of enforcement of cannabis-related laws. Those communities face greater difficulties accessing traditional banking systems and capital for establishing businesses.

(3) The legislature therefore finds that in the interest of remedying harms resulting from the enforcement of cannabis-related laws in disproportionately impacted areas, creating a social equity program will further an equitable cannabis industry by promoting business ownership among individuals who have resided in areas of high poverty and high enforcement of cannabis-related laws. The social equity program should offer, among other things, financial and technical assistance and license application benefits to individuals most directly and adversely impacted by the enforcement of cannabis-related laws who are interested in starting cannabis business enterprises. It is the intent of the legislature that implementation of the social equity program authorized by this act not result in an increase in the number of marijuana retailer licenses above the limit on the number of marijuana retailer licenses in the state established by the board before January 1, 2020.

NEW SECTION. Sec. 2. A new section is added to chapter 69.50 RCW to read as follows:

(1) Beginning December 1, 2020, and until July 1, 2028, marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or marijuana retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of marijuana retailer licenses established before January 1, 2020, by the board, may be issued or reissued to an applicant who meets the marijuana retailer license requirements of this chapter.

(2)(a) In order to be considered for a retail license under subsection (1) of this section, an applicant must be a social equity applicant and submit a social equity plan along with other marijuana retailer license application requirements to the board. If the application proposes ownership by more than one person, then at least fifty-one percent of the proposed ownership structure must reflect the qualifications of a social equity applicant.

(b) Persons holding an existing marijuana retailer license or title certificate for a marijuana retailer business in a local jurisdiction subject to a ban or moratorium on marijuana retail businesses may apply for a license under this section.

(3)(a) In determining the issuance of a license among applicants, the board may prioritize applicants based on the extent to which the application addresses the components of the social equity plan.

(b) The board may deny any application submitted under this subsection if the board determines that:

(i) The application does not meet social equity goals or does not meet social equity plan requirements; or

(ii) The application does not otherwise meet the licensing requirements of this chapter.

(4) The board may adopt rules to implement this section. Rules may include strategies for receiving advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section be transferred or sold only to individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant with a social equity plan under this section.

(5) For the purposes of this section:

(a) "Disproportionately impacted area" means a census tract or comparable geographic area that satisfies the following criteria,

which may be further defined in rule by the board after consultation with the commission on African American affairs and other agencies and stakeholders as determined by the board:

- (i) The area has a high poverty rate;
- (ii) The area has a high rate of participation in income-based federal or state programs;
- (iii) The area has a high rate of unemployment; and
- (iv) The area has a high rate of arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of marijuana.

(b) "Social equity applicant" means:

(i) An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided for at least five of the preceding ten years in a disproportionately impacted area; or

(ii) An applicant who has at least fifty-one percent ownership and control by at least one individual who has been convicted of a marijuana offense or is a family member of such an individual.

(c) "Social equity goals" means:

(i) Increasing the number of marijuana retailer licenses held by social equity applicants from disproportionately impacted areas; and

(ii) Reducing accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of marijuana prohibition laws.

(d) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (5)(d), along with any additional plan components or requirements approved by the board following consultation with the task force created in section 5 of this act. The plan may include:

(i) A statement that the social equity applicant qualifies as a social equity applicant and intends to own at least fifty-one percent of the proposed marijuana retail business or applicants representing at least fifty-one percent of the ownership of the proposed business qualify as social equity applicants;

(ii) A description of how issuing a marijuana retail license to the social equity applicant will meet social equity goals;

(iii) The social equity applicant's personal or family history with the criminal justice system including any offenses involving marijuana;

(iv) The composition of the workforce the social equity applicant intends to hire;

(v) Neighborhood characteristics of the location where the social equity applicant intends to operate, focusing especially on disproportionately impacted areas; and

(vi) Business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of enforcement of marijuana prohibition.

NEW SECTION. Sec. 3. A new section is added to chapter 43.330 RCW to read as follows:

(1) The marijuana social equity technical assistance competitive grant program is established and is to be administered by the department.

(2) The marijuana social equity technical assistance competitive grant program must award grants on a competitive basis to marijuana retailer license applicants who are social equity applicants submitting social equity plans under section 2 of this act. The department must award grants primarily based on the strength of the social equity plans submitted by applicants but may also consider additional criteria if deemed necessary or appropriate by the department. Technical assistance activities eligible for funding under the marijuana social equity technical assistance competitive grant program include, but are not limited to:

(a) Assistance navigating the marijuana retailer licensure

process;

(b) Marijuana-business specific education and business plan development;

(c) Regulatory compliance training;

(d) Financial management training and assistance in seeking financing; and

(e) Connecting social equity applicants with established industry members and tribal marijuana enterprises and programs for mentoring and other forms of support approved by the board.

(3) Funding for the marijuana social equity technical assistance competitive grant program must be provided through the dedicated marijuana account under RCW 69.50.540. Additionally, the department may solicit, receive, and expend private contributions to support the grant program.

(4) The department may adopt rules to implement this section.

Sec. 4. RCW 69.50.540 and 2019 c 415 s 978 are each amended to read as follows:

The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis or as provided in this subsection:

(a) One hundred twenty-five thousand dollars to the health care authority to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and (~~state liquor and cannabis~~) board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(b) Fifty thousand dollars to the health care authority for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;

(c) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(d)(i) An amount not less than one million two hundred fifty thousand dollars to the (~~state liquor and cannabis~~) board for administration of this chapter as appropriated in the omnibus appropriations act;

(ii) Two million six hundred fifty-one thousand seven hundred fifty dollars for fiscal year 2018 and three hundred fifty-one thousand seven hundred fifty dollars for fiscal year 2019 to the health professions account established under RCW 43.70.320 for the development and administration of the marijuana authorization database by the department of health;

(iii) Two million seven hundred twenty-three thousand dollars for fiscal year 2020 and two million five hundred twenty-three thousand dollars for fiscal year 2021 to the Washington state patrol for a drug enforcement task force. It is the intent of the

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legislature that this policy will be continued in the 2021-2023 fiscal biennium; and

(iv) Ninety-eight thousand dollars for fiscal year 2019 to the department of ecology for research on accreditation of marijuana product testing laboratories;

(e) Four hundred sixty-five thousand dollars for fiscal year 2020 and four hundred sixty-four thousand dollars for fiscal year 2021 to the department of ecology for implementation of accreditation of marijuana product testing laboratories;

(f) One hundred eighty-nine thousand dollars for fiscal year 2020 to the department of health for rule making regarding compassionate care renewals;

(g) Eight hundred eight thousand dollars for fiscal year 2020 and eight hundred eight thousand dollars for fiscal year 2021 to the department of health for the administration of the marijuana authorization database; ~~((and))~~

(h) ~~(((\$635,000 [six hundred thirty five thousand dollars])) Six hundred thirty-five thousand dollars for fiscal year 2020 and (((\$635,000 [six hundred thirty five thousand dollars])) six hundred thirty-five thousand dollars for fiscal year 2021 to the department of agriculture for compliance-based laboratory analysis of pesticides in marijuana(-)); and~~

(i) One million one hundred thousand dollars annually to the department of commerce to fund the marijuana social equity technical assistance competitive grant program under section 3 of this act; and

(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a)(i) Up to fifteen percent to the health care authority for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the director of the health care authority must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For each fiscal year, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or

research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(B) The Washington poison control center.

(ii) For each fiscal year, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For each fiscal year, except for the 2017-2019 and 2019-2021 fiscal biennia, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For each fiscal year, except for the 2017-2019 and 2019-2021 fiscal biennia, the legislature must appropriate a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c). It is the intent of the legislature that this policy will be continued in the 2019-2021 fiscal biennium;

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For each fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

(g) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For

purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the ~~((state liquor and cannabis))~~ board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).

(iv) The total share of marijuana excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018, 2019, 2020, and 2021, and twenty million dollars per fiscal year thereafter. It is the intent of the legislature that the policy for the maximum distributions in the subsequent fiscal biennia will be no more than fifteen million dollars per fiscal year.

~~((For the purposes of this section, "marijuana products" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products" as those terms are defined in RCW 69.50.101.))~~

NEW SECTION. Sec. 5. A new section is added to chapter 69.50 RCW to read as follows:

(1) A legislative task force on social equity in marijuana is established. The purpose of the task force is to make recommendations to the board including but not limited to establishing a social equity program for the issuance and reissuance of existing retail marijuana licenses, and to advise the governor and the legislature on policies that will facilitate development of a marijuana social equity program.

(2) The members of the task force are as provided in this subsection.

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

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

(c) The president of the senate and the speaker of the house of representatives shall jointly appoint:

(i) One member from each of the following:

(A) The commission on African American affairs;

(B) The commission on Hispanic affairs;

(C) The governor's office of Indian affairs;

(D) An organization representing the African American community;

(E) An organization representing the Latinx community;

(F) A labor organization involved in the marijuana industry;

(G) The liquor and cannabis board;

(H) The department of commerce;

(I) The office of the attorney general; and

(J) The association of Washington cities;

(ii) Two members that currently hold a marijuana retail license; and

(iii) Two members that currently hold a producer or processor license or both.

(3) In addition to the members appointed to the task force under subsection (2) of this section, individuals representing other sectors may be invited by the chair of the task force, in consultation with the other appointed members of the task force, to participate in an advisory capacity in meetings of the task force.

(a) Individuals participating in an advisory capacity under this

subsection are not members of the task force, may not vote, and are not subject to the appointment process established in this section.

(b) There is no limit to the number of individuals who may participate in task force meetings in an advisory capacity under this subsection.

(c) A majority of the task force members constitutes a quorum. If a member has not been designated for a position set forth in this section, that position may not be counted for the purpose of determining a quorum.

(4) The task force shall hold its first meeting by July 1, 2020. The task force shall elect a chair from among its legislative members at the first meeting. The election of the chair must be by a majority vote of the task force members who are present at the meeting. The chair of the task force is responsible for arranging subsequent meetings and developing meeting agendas.

(5) Staff support for the task force, including arranging the first meeting of the task force and assisting the chair of the task force in arranging subsequent meetings, must be provided by the health equity council of the governor's interagency council on health disparities. If Engrossed Second Substitute House Bill No. 1783 is enacted by June 30, 2020, then responsibility for providing staff support for the task force must be transferred to the office of equity created by Engrossed Second Substitute House Bill No. 1783 when requested by the office of equity.

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

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

(8) The task force is a class one group under chapter 43.03 RCW.

(9) A public comment period must be provided at every meeting of the task force.

(10) The task force shall submit one or more reports on recommended policies that will facilitate the development of a marijuana social equity program in Washington to the governor, the board, and the appropriate committees of the legislature. The task force is encouraged to submit individual recommendations, as soon as possible, to facilitate the board's early work to implement the recommendations. The final recommendations must be submitted by December 1, 2020. The recommendations must include:

(a) Factors the board must consider in distributing the licenses currently available from marijuana retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or marijuana retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of marijuana retailer licenses established by the board before January 1, 2020; and

(b) Whether any additional marijuana licenses should be issued beyond the total number of marijuana licenses that have been issued as of the effective date of this section. For purposes of determining the total number of licenses issued as of the effective date of this section, the total number includes licenses that have been forfeited, revoked, or canceled.

(11) The board may adopt rules to implement the recommendations of the task force. However, any recommendation to increase the number of retail outlets above the

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current statewide limit of retail outlets, established by the board before January 1, 2020, must be approved by the legislature.

(12) This section expires June 30, 2022.

Sec. 6. RCW 69.50.325 and 2018 c 132 s 3 are each amended to read as follows:

(1) There shall be a marijuana producer's license regulated by the ~~((state liquor and cannabis))~~ board and subject to annual renewal. The licensee is authorized to produce: (a) Marijuana for sale at wholesale to marijuana processors and other marijuana producers; (b) immature plants or clones and seeds for sale to cooperatives as described under RCW 69.51A.250; and (c) immature plants or clones and seeds for sale to qualifying patients and designated providers as provided under RCW 69.51A.310. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the ~~((state liquor and cannabis))~~ board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3)(a) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the ~~((state liquor and cannabis))~~ board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's

license shall be one thousand three hundred eighty-one dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

(b) An individual retail licensee and all other persons or entities with a financial or other ownership interest in the business operating under the license are limited, in the aggregate, to holding a collective total of not more than five retail marijuana licenses.

(c)(i) A marijuana retailer's license is subject to forfeiture in accordance with rules adopted by the ~~((state liquor and cannabis))~~ board pursuant to this section.

(ii) The ~~((state liquor and cannabis))~~ board shall adopt rules to establish a license forfeiture process for a licensed marijuana retailer that is not fully operational and open to the public within a specified period from the date of license issuance, as established by the ~~((state liquor and cannabis))~~ board, subject to the following restrictions:

(A) No marijuana retailer's license may be subject to forfeiture within the first nine months of license issuance; and

(B) The ~~((state liquor and cannabis))~~ board must require license forfeiture on or before twenty-four calendar months of license issuance if a marijuana retailer is not fully operational and open to the public, unless the board determines that circumstances out of the licensee's control are preventing the licensee from becoming fully operational and that, in the board's discretion, the circumstances warrant extending the forfeiture period beyond twenty-four calendar months.

(iii) The ~~((state liquor and cannabis))~~ board has discretion in adopting rules under this subsection (3)(c).

(iv) This subsection (3)(c) applies to marijuana retailer's licenses issued before and after July 23, 2017. However, no license of a marijuana retailer that otherwise meets the conditions for license forfeiture established pursuant to this subsection (3)(c) may be subject to forfeiture within the first nine calendar months of July 23, 2017.

(v) The ~~((state liquor and cannabis))~~ board may not require license forfeiture if the licensee has been incapable of opening a fully operational retail marijuana business due to actions by the city, town, or county with jurisdiction over the licensee that include any of the following:

(A) The adoption of a ban or moratorium that prohibits the opening of a retail marijuana business; or

(B) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed marijuana retailer from becoming operational.

(d) The board may issue marijuana retailer licenses pursuant to this chapter and section 2 of this act.

NEW SECTION. **Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2020, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "purposes;" strike the remainder of the title and insert "amending RCW 69.50.540 and 69.50.325; adding new sections to chapter 69.50 RCW; adding a new section to chapter 43.330 RCW; creating new sections; and providing an expiration date."

MOTION

Senator King moved that the following floor amendment no. 1356 by Senator King be adopted:

On page 3, line 5, after "(5)", insert the following:

"The annual fee for issuance, reissuance, or renewal for any license under this section must be equal to the fee established in RCW 69.50.325."

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

Senators King and Saldaña spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1356 by Senator King on page 3, line 5 to striking floor amendment no. 1353.

The motion by Senator King carried and floor amendment no. 1356 was adopted by voice vote.

MOTION

Senator King moved that the following floor amendment no. 1357 by Senator King be adopted:

On page 10, line 35, after "(F)", strike through "(G)" on line 36.

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators King and Walsh spoke in favor of adoption of the amendment to the striking amendment.

Senator Keiser spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1357 by Senator King on page 10, line 35 to striking floor amendment no. 1353.

The motion by Senator King did not carry and floor amendment no. 1357 was not adopted by voice vote.

MOTION

Senator King moved that the following floor amendment no. 1358 by Senator King be adopted:

On page 12, line 17, after "December", strike "1, 2020", and insert "31, 2020 for approval by the legislature"

On page 12, line 32, after "task force", strike everything through "be" on line 34, and insert "if"

Senator King spoke in favor of adoption of the amendment to the striking amendment.

Senator Saldaña spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 1358 by Senator King on page 12, line 17 to striking floor amendment no. 1353.

The motion by Senator King did not carry and floor amendment no. 1358 was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 1353 by Senator Saldaña as amended to Engrossed Second Substitute House Bill No. 2870.

The motion by Senator Saldaña carried and striking floor amendment no. 1353 as amended was adopted by a rising vote.

MOTION

On motion of Senator Saldaña, the rules were suspended, Engrossed Second Substitute House Bill No. 2870 as amended by

the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Saldaña spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2870 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2870 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frocht, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Becker, Braun, Brown, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2870 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

March 4, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6152 with the following amendment(s): 6152-S AMH ENGR H5160E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the First Amendment rights of freedom of speech and free association, as they relate to participating in elections, are core values in the United States. The United States supreme court has repeatedly held that these rights include the right to make campaign contributions in support of candidates and ballot measures at the federal, state, and local levels.

The legislature also finds, in accordance with federal law, that these rights are reserved solely for citizens of the United States and permanent legal residents, whether they act as individuals or in association. The First Amendment protection for political speech does not apply to foreign nationals, who are forbidden under 52 U.S.C. Sec. 30121 from directly or indirectly making political contributions or financing independent expenditures and electioneering communications, either individually or collectively through a corporation or other association. Furthermore, federal law prohibits any person from knowingly soliciting or receiving contributions from a foreign national. Therefore, it falls to individual states to help protect the prohibition on foreign influence in our state and local elections by

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requiring certification that contributions, expenditures, political advertising, and electioneering communications are not financed in any part by foreign nationals and that foreign nationals are not involved in making decisions regarding such election activity in any way.

Sec. 2. RCW 42.17A.005 and 2019 c 428 s 3 are each amended to read as follows:

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

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has been recognized as a minor political party by the secretary of state;

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Books of account" means:

(a) In the case of a campaign or political committee, a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day; or

(b) In the case of a commercial advertiser, details of political advertising or electioneering communications provided by the advertiser, including the names and addresses of persons from whom it accepted political advertising or electioneering communications, the exact nature and extent of the services rendered and the total cost and the manner of payment for the services.

(8) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when the individual first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the individual's candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote the individual's candidacy; or

(d) Gives consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(9) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(10) "Commercial advertiser" means any person that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboards, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly, for votes or for financial or other support in any election campaign.

(11) "Commission" means the agency established under RCW 42.17A.100.

(12) "Committee" unless the context indicates otherwise, includes a political committee such as a candidate, ballot proposition, recall, political, or continuing political committee.

(13) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind. For the purpose of compliance with RCW 42.17A.710, "compensation" does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(14) "Continuing political committee" means a political committee that is an organization of continuing existence not limited to participation in any particular election campaign or election cycle.

(15)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political or incidental committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising or electioneering communication prepared by a candidate, a political or incidental committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Accrued interest on money deposited in a political or incidental committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political or incidental committee that is returned to the contributor within ten business days of the date on which it is received by the candidate or political or incidental committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of interest to the public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political or incidental committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or

political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts toward any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political or incidental committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political or incidental committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political or incidental committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17A.205; and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (15)(b)(ix) is not considered an agent of the candidate or committee as long as the person has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(16) "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

(17) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(18) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters. An election in which the qualifications for voting include other than those requirements set

forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(19) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(20) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(21)(a) "Electioneering communication" means any broadcast, cable, or satellite television, radio transmission, digital communication, United States postal service mailing, billboard, newspaper, or periodical that:

(i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

(ii) Is broadcast, transmitted electronically or by other means, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

(iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market value or cost of one thousand dollars or more.

(b) "Electioneering communication" does not include:

(i) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding the candidate becoming a candidate;

(ii) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

(iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

(A) Of interest to the public;

(B) In a news medium controlled by a person whose business is that news medium; and

(C) Not a medium controlled by a candidate or a political or incidental committee;

(iv) Slate cards and sample ballots;

(v) Advertising for books, films, dissertations, or similar works (A) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or (B) written about a candidate;

(vi) Public service announcements;

(vii) An internal political communication primarily limited to the members of or contributors to a political party organization or political or incidental committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(viii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

(ix) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

(22) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay, a

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payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. "Expenditure" shall not include the partial or complete repayment by a candidate or political or incidental committee of the principal of a loan, the receipt of which loan has been properly reported.

(23) "Final report" means the report described as a final report in RCW 42.17A.235(11)(a).

(24) "Foreign national" means:

(a) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;

(b) A government, or subdivision, of a foreign country;

(c) A foreign political party; and

(d) Any entity, such as a partnership, association, corporation, organization, or other combination of persons, that is organized under the laws of or has its principal place of business in a foreign country.

(25) "General election" for the purposes of RCW 42.17A.405 means the election that results in the election of a person to a state or local office. It does not include a primary.

~~((25))~~ (26) "Gift" has the definition in RCW 42.52.010.

~~((26))~~ (27) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

~~((27))~~ (28) "Incidental committee" means any nonprofit organization not otherwise defined as a political committee but that may incidentally make a contribution or an expenditure in excess of the reporting thresholds in RCW 42.17A.235, directly or through a political committee. Any nonprofit organization is not an incidental committee if it is only remitting payments through the nonprofit organization in an aggregated form and the nonprofit organization is not required to report those payments in accordance with this chapter.

~~((28))~~ (29) "Incumbent" means a person who is in present possession of an elected office.

~~((29))~~ (30)(a) "Independent expenditure" means an expenditure that has each of the following elements:

(i) It is made in support of or in opposition to a candidate for office by a person who is not:

(A) A candidate for that office;

(B) An authorized committee of that candidate for that office; and

(C) A person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(ii) It is made in support of or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(iii) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(iv) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of one thousand dollars or more. A series of expenditures, each of which is under one thousand dollars, constitutes one independent expenditure if their cumulative value is one thousand dollars or more.

(b) "Independent expenditure" does not include: Ordinary home hospitality; communications with journalists or editorial staff designed to elicit a news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, controlled by a person whose business is that news medium, and not controlled by a candidate or a political committee; participation in the creation of a publicly funded voters pamphlet statement in written or video form; an internal political communication primarily limited to contributors to a political party organization or political action committee, the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of two hundred fifty dollars personally paid for by the worker.

~~((30))~~ (31)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

~~((31))~~ (32) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

~~((32))~~ (33) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((33))~~ (34) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

~~((34))~~ (35) "Lobbyist" includes any person who lobbies either on the person's own or another's behalf.

~~((35))~~ (36) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom the lobbyist is compensated for acting as a lobbyist.

~~((36))~~ (37) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

~~((37))~~ (38) "Participate" means that, with respect to a

particular election, an entity:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate before contributions are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed before a contribution is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

~~((38))~~ (39) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

~~((39))~~ (40) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, digital communication, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((40))~~ (41) "Political committee" means any person (except a candidate or an individual dealing with the candidate's or individual's own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((41))~~ (42) "Primary" for the purposes of RCW 42.17A.405 means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~((42))~~ (43) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((43))~~ (44) "Public record" has the definition in RCW 42.56.010.

~~((44))~~ (45) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~((45))~~ (46) "Remediable violation" means any violation of this chapter that:

(a) Involved expenditures or contributions totaling no more than the contribution limits set out under RCW 42.17A.405(2) per election, or one thousand dollars if there is no statutory limit;

(b) Occurred:

(i) More than thirty days before an election, where the commission entered into an agreement to resolve the matter; or

(ii) At any time where the violation did not constitute a material violation because it was inadvertent and minor or otherwise has been cured and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter;

(c) Does not materially harm the public interest, beyond the harm to the policy of this chapter inherent in any violation; and

(d) Involved:

(i) A person who:

(A) Took corrective action within five business days after the

commission first notified the person of noncompliance, or where the commission did not provide notice and filed a required report within twenty-one days after the report was due to be filed; and

(B) Substantially met the filing deadline for all other required reports within the immediately preceding twelve-month period; or

(ii) A candidate who:

(A) Lost the election in question; and

(B) Did not receive contributions over one hundred times the contribution limit in aggregate per election during the campaign in question.

~~((46))~~ (47)(a) "Sponsor" for purposes of an electioneering communications, independent expenditures, or political advertising means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(b) "Sponsor," for purposes of a political or incidental committee, means any person, except an authorized committee, to whom any of the following applies:

(i) The committee receives eighty percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(ii) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

~~((47))~~ (48) "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

~~((48))~~ (49) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

~~((49))~~ (50) "State official" means a person who holds a state office.

~~((50))~~ (51) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts or expenses incurred by the committee or candidate with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts or expenses when it makes its final report under RCW 42.17A.255.

~~((51))~~ (52) "Technical correction" means the correction of a minor or ministerial error in a required report that does not materially harm the public interest and needs to be corrected for the report to be in full compliance with the requirements of this chapter.

~~((52))~~ (53) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political or incidental committee, pursuant to RCW 42.17A.210, to perform the duties specified in that section.

~~((53))~~ (54) "Violation" means a violation of this chapter that is not a remediable violation, minor violation, or an error classified by the commission as appropriate to address by a technical correction.

Sec. 3. RCW 42.17A.240 and 2019 c 428 s 21 are each amended to read as follows:

Each report required under RCW 42.17A.235 (1) through (4) must be certified as correct by the treasurer and the candidate and shall disclose the following, except an incidental committee only must disclose and certify as correct the information required

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under subsections (2)(d) and ~~((6))~~ (7) of this section:

- (1) The funds on hand at the beginning of the period;
- (2) The name and address of each person who has made one or more contributions during the period, together with the money value and date of each contribution and the aggregate value of all contributions received from each person during the campaign, or in the case of a continuing political committee, the current calendar year, with the following exceptions:
 - (a) Pledges in the aggregate of less than one hundred dollars from any one person need not be reported;
 - (b) Income that results from a fund-raising activity conducted in accordance with RCW 42.17A.230 may be reported as one lump sum, with the exception of that portion received from persons whose names and addresses are required to be included in the report required by RCW 42.17A.230;
 - (c) Contributions of no more than twenty-five dollars in the aggregate from any one person during the election campaign may be reported as one lump sum if the treasurer maintains a separate and private list of the name, address, and amount of each such contributor;
 - (d) Payments received by an incidental committee from any one person need not be reported unless the person is one of the committee's ten largest sources of payments received, including any persons tied as the tenth largest source of payments received, during the current calendar year, and the value of the cumulative payments received from that person during the current calendar year is ten thousand dollars or greater. For payments to incidental committees from multiple persons received in aggregated form, any payment of more than ten thousand dollars from any single person must be reported, but the aggregated payment itself may not be reported. The commission may suspend or modify reporting requirements for payments received by an incidental committee in cases of manifestly unreasonable hardship under this chapter;
 - (e) Payments from private foundations organized under section 501(c)(3) of the internal revenue code to an incidental committee do not have to be reported if:
 - (i) The private foundation is contracting with the incidental committee for a specific purpose other than election campaign purposes;
 - (ii) Use of the funds for election campaign purposes is explicitly prohibited by contract; and
 - (iii) Funding from the private foundation represents less than twenty-five percent of the incidental committee's total budget;
 - (f) Commentary or analysis on a ballot proposition by an incidental committee is not considered a contribution if it does not advocate specifically to vote for or against the ballot proposition; and
 - (g) The money value of contributions of postage is the face value of the postage;
- (3) Each loan, promissory note, or security instrument to be used by or for the benefit of the candidate or political committee made by any person, including the names and addresses of the lender and each person liable directly, indirectly or contingently and the date and amount of each such loan, promissory note, or security instrument;
- (4) All other contributions not otherwise listed or exempted;
- (5) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution to the candidate or political committee that:
 - (a) The contribution is not financed in any part by a foreign national; and
 - (b) Foreign nationals are not involved in making decisions regarding the contribution in any way;

(6) The name and address of each candidate or political committee to which any transfer of funds was made, including the amounts and dates of the transfers;

~~((6))~~ (7) The name and address of each person to whom an expenditure was made in the aggregate amount of more than fifty dollars during the period covered by this report, the amount, date, and purpose of each expenditure, and the total sum of all expenditures. An incidental committee only must report on expenditures, made and reportable as contributions as defined in RCW 42.17A.005, to election campaigns. For purposes of this subsection, commentary or analysis on a ballot proposition by an incidental committee is not considered an expenditure if it does not advocate specifically to vote for or against the ballot proposition;

~~((7))~~ (8) The name, address, and electronic contact information of each person to whom an expenditure was made for soliciting or procuring signatures on an initiative or referendum petition, the amount of the compensation to each person, and the total expenditures made for this purpose. Such expenditures shall be reported under this subsection in addition to what is required to be reported under subsection ~~((6))~~ (7) of this section;

~~((8))~~ (9)(a) The name and address of any person and the amount owed for any debt with a value of more than seven hundred fifty dollars that has not been paid for any invoices submitted, goods received, or services performed, within five business days during the period within thirty days before an election, or within ten business days during any other period.

(b) For purposes of this subsection, debt does not include regularly recurring expenditures of the same amount that have already been reported at least once and that are not late or outstanding;

~~((9))~~ (10) The surplus or deficit of contributions over expenditures;

~~((10))~~ (11) The disposition made in accordance with RCW 42.17A.430 of any surplus funds; and

~~((11))~~ (12) Any other information required by the commission by rule in conformance with the policies and purposes of this chapter.

Sec. 4. RCW 42.17A.250 and 2010 c 204 s 411 are each amended to read as follows:

(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240 shall report as required in this section when it makes an expenditure supporting or opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

- (a) Its name and address;
- (b) The purposes of the out-of-state committee;
- (c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;

(d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if the committee is supporting or opposing the entire ticket of any party, the name of the party;

(e) The ballot proposition supported or opposed in the state of Washington, if any, and whether the committee is in favor of or opposed to that proposition;

(f) The name and address of each person residing in the state of Washington or corporation that has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the out-of-state

committee during the current calendar year, together with the money value and date of the contributions;

(g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred fifty dollars to the out-of-state committee during the current calendar year, together with the money value and date of the contributions. Annually, the commission must modify the two thousand five hundred fifty dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;

(h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of the expenditure, and the total sum of the expenditures; ~~(and)~~

(i) A statement that the out-of-state committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(j) Any other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

(2) Each statement shall be filed no later than the tenth day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information.

Sec. 5. RCW 42.17A.255 and 2019 c 428 s 22 are each amended to read as follows:

(1) For the purposes of this section the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17A.225, 42.17A.235, and 42.17A.240. "Independent expenditure" does not include: An internal political communication primarily limited to the contributors to a political party organization or political action committee, or the officers, management staff, and stockholders of a corporation or similar enterprise, or the members of a labor organization or other membership organization; or the rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this section, means services or labor for which the individual is not compensated by any person.

(2) Within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more, or within five days after the date of making an independent expenditure for which no reasonable estimate of monetary value is practicable, whichever occurs first, the person who made the independent expenditure shall file with the commission an initial report of all independent expenditures made during the campaign prior to and including such date.

(3) At the following intervals each person who is required to file an initial report pursuant to subsection (2) of this section shall file with the commission a further report of the independent expenditures made since the date of the last report:

(a) On the twenty-first day and the seventh day preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed pursuant to this section. However, the further reports required by this subsection (3) shall only be filed if the reporting person has made an independent expenditure since the date of the last previous report filed.

The report filed pursuant to (a) of this subsection (3) shall be the final report, and upon submitting such final report the duties of the reporting person shall cease, and there shall be no obligation to make any further reports.

(4) All reports filed pursuant to this section shall be certified as correct by the reporting person.

(5) Each report required by subsections (2) and (3) of this section shall disclose for the period beginning at the end of the period for the last previous report filed or, in the case of an initial report, beginning at the time of the first independent expenditure, and ending not more than one business day before the date the report is due:

(a) The name, address, and electronic contact information of the person filing the report;

(b) The name and address of each person to whom an independent expenditure was made in the aggregate amount of more than fifty dollars, and the amount, date, and purpose of each such expenditure. If no reasonable estimate of the monetary value of a particular independent expenditure is practicable, it is sufficient to report instead a precise description of services, property, or rights furnished through the expenditure and where appropriate to attach a copy of the item produced or distributed by the expenditure;

(c) The total sum of all independent expenditures made during the campaign to date; ~~(and)~~

(d) A statement from the person making an independent expenditure that:

(i) The expenditure is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the expenditure in any way; and

(e) Such other information as shall be required by the commission by rule in conformance with the policies and purposes of this chapter.

Sec. 6. RCW 42.17A.260 and 2019 c 428 s 23 are each amended to read as follows:

(1) The sponsor of political advertising shall file a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public, if the political advertising:

(a) Is published, mailed, or otherwise presented to the public within twenty-one days of an election; and

(b) Either:

(i) Qualifies as an independent expenditure with a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a candidate; or

(ii) Has a fair market value or actual cost of one thousand dollars or more, for political advertising supporting or opposing a ballot proposition.

(2) If a sponsor is required to file a special report under this section, the sponsor shall also deliver to the commission within the delivery period established in subsection (1) of this section a special report for each subsequent independent expenditure of any

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size supporting or opposing the same candidate who was the subject of the previous independent expenditure, supporting or opposing that candidate's opponent, or, in the case of a subsequent expenditure of any size made in support of or in opposition to a ballot proposition not otherwise required to be reported pursuant to RCW 42.17A.225, 42.17A.235, or 42.17A.240, supporting or opposing the same ballot proposition that was the subject of the previous expenditure.

(3) The special report must include:

(a) The name and address of the person making the expenditure;

(b) The name and address of the person to whom the expenditure was made;

(c) A detailed description of the expenditure;

(d) The date the expenditure was made and the date the political advertising was first published or otherwise presented to the public;

(e) The amount of the expenditure;

(f) The name of the candidate supported or opposed by the expenditure, the office being sought by the candidate, and whether the expenditure supports or opposes the candidate; or the name of the ballot proposition supported or opposed by the expenditure and whether the expenditure supports or opposes the ballot proposition; ~~(and)~~

(g) A statement from the sponsor that:

(i) The political advertising is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the political advertising in any way; and

(h) Any other information the commission may require by rule.

(4) All persons required to report under RCW 42.17A.225, 42.17A.235, 42.17A.240, 42.17A.255, and 42.17A.305 are subject to the requirements of this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17A.255.

(5) The sponsor of independent expenditures supporting a candidate or opposing that candidate's opponent required to report under this section shall file with each required report an affidavit or declaration of the person responsible for making the independent expenditure that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate, the candidate's authorized committee, or the candidate's agent, or with the encouragement or approval of the candidate, the candidate's authorized committee, or the candidate's agent.

Sec. 7. RCW 42.17A.265 and 2019 c 428 s 24 are each amended to read as follows:

(1) Treasurers shall prepare and deliver to the commission a special report when a contribution or aggregate of contributions totals one thousand dollars or more, is from a single person or entity, and is received during a special reporting period.

(2) A political committee shall prepare and deliver to the commission a special report when it makes a contribution or an aggregate of contributions to a single entity that totals one thousand dollars or more during a special reporting period.

(3) An aggregate of contributions includes only those contributions made to or received from a single entity during any one special reporting period. Any subsequent contribution of any size made to or received from the same person or entity during the special reporting period must also be reported.

(4) Special reporting periods, for purposes of this section, include:

(a) The period beginning on the day after the last report required by RCW 42.17A.235 and 42.17A.240 to be filed before a primary and concluding on the end of the day before that

primary;

(b) The period twenty-one days preceding a general election; and

(c) An aggregate of contributions includes only those contributions received from a single entity during any one special reporting period or made by the contributing political committee to a single entity during any one special reporting period.

(5) If a campaign treasurer files a special report under this section for one or more contributions received from a single entity during a special reporting period, the treasurer shall also file a special report under this section for each subsequent contribution of any size which is received from that entity during the special reporting period. If a political committee files a special report under this section for a contribution or contributions made to a single entity during a special reporting period, the political committee shall also file a special report for each subsequent contribution of any size which is made to that entity during the special reporting period.

(6) Special reports required by this section shall be delivered electronically, or in written form if an electronic alternative is not available.

(a) The special report required of a contribution recipient under subsection (1) of this section shall be delivered to the commission within forty-eight hours of the time, or on the first working day after: The contribution of one thousand dollars or more is received by the candidate or treasurer; the aggregate received by the candidate or treasurer first equals one thousand dollars or more; or any subsequent contribution from the same source is received by the candidate or treasurer.

(b) The special report required of a contributor under subsection (2) of this section or RCW 42.17A.625 shall be delivered to the commission, and the candidate or political committee to whom the contribution or contributions are made, within twenty-four hours of the time, or on the first working day after: The contribution is made; the aggregate of contributions made first equals one thousand dollars or more; or any subsequent contribution to the same person or entity is made.

(7) The special report shall include:

(a) The amount of the contribution or contributions;

(b) The date or dates of receipt;

(c) The name and address of the donor;

(d) The name and address of the recipient; ~~(and)~~

(e) A statement that the candidate or political committee has received a certification from any partnership, association, corporation, organization, or other combination of persons making a contribution reportable under this section that:

(i) The contribution is not financed in any part by a foreign national; and

(ii) Foreign nationals are not involved in making decisions regarding the contribution in any way; and

(f) Any other information the commission may by rule require.

(8) Contributions reported under this section shall also be reported as required by other provisions of this chapter.

(9) The commission shall prepare daily a summary of the special reports made under this section and RCW 42.17A.625.

(10) Contributions governed by this section include, but are not limited to, contributions made or received indirectly through a third party or entity whether the contributions are or are not reported to the commission as earmarked contributions under RCW 42.17A.270.

Sec. 8. RCW 42.17A.305 and 2019 c 428 s 25 are each amended to read as follows:

(1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include,

at a minimum, the following information:

- (a) Name and address of the sponsor;
 - (b) Source of funds for the communication, including:
 - (i) General treasury funds. The name and address of businesses, unions, groups, associations, or other organizations using general treasury funds for the communication, however, if a business, union, group, association, or other organization undertakes a special solicitation of its members or other persons for an electioneering communication, or it otherwise receives funds for an electioneering communication, that entity shall report pursuant to (b)(ii) of this subsection;
 - (ii) Special solicitations and other funds. The name, address, and, for individuals, occupation and employer, of a person whose funds were used to pay for the electioneering communication, along with the amount, if such funds from the person have exceeded two hundred fifty dollars in the aggregate for the electioneering communication; ~~((and))~~
 - (iii) A statement from the sponsor that:
 - (A) The electioneering communication is not financed in any part by a foreign national; and
 - (B) Foreign nationals are not involved in making decisions regarding the electioneering communication in any way; and
 - (iv) Any other source information required or exempted by the commission by rule;
 - (c) Name and address of the person to whom an electioneering communication related expenditure was made;
 - (d) A detailed description of each expenditure of more than one hundred dollars;
 - (e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published;
 - (f) The amount of the expenditure;
 - (g) The name of each candidate clearly identified in the electioneering communication, the office being sought by each candidate, and the amount of the expenditure attributable to each candidate; and
 - (h) Any other information the commission may require or exempt by rule.
- (2) Electioneering communications shall be reported as follows: The sponsor of an electioneering communication shall report to the commission within twenty-four hours of, or on the first working day after, the date the electioneering communication is broadcast, transmitted, mailed, erected, distributed, digitally or otherwise, or otherwise published.
- (3) Electioneering communications shall be reported electronically by the sponsor using software provided or approved by the commission. The commission may make exceptions on a case-by-case basis for a sponsor who lacks the technological ability to file reports using the electronic means provided or approved by the commission.
- (4) All persons required to report under RCW 42.17A.225, 42.17A.235, 42.17A.240, and 42.17A.255 are subject to the requirements of this section, although the commission may determine by rule that persons filing according to those sections may be exempt from reporting some of the information otherwise required by this section. The commission may determine that reports filed pursuant to this section also satisfy the requirements of RCW 42.17A.255 and 42.17A.260.
- (5) Failure of any sponsor to report electronically under this section shall be a violation of this chapter.

NEW SECTION. Sec. 9. A new section is added to chapter 42.17A RCW to read as follows:

(1) A foreign national may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication.

(2) A person may not make a contribution to any candidate or political committee, make an expenditure in support of or in opposition to any candidate or ballot measure, or sponsor political advertising or an electioneering communication, if:

(a) The contribution, expenditure, political advertising, or electioneering communication is financed in any part by a foreign national; or

(b) Foreign nationals are involved in making decisions regarding the contribution, expenditure, political advertising, or electioneering communication in any way.

NEW SECTION. Sec. 10. A new section is added to chapter 42.17A RCW to read as follows:

(1) Each candidate or political committee that has accepted a contribution, and each out-of-state committee that has accepted a contribution reportable under RCW 42.17A.250, from a partnership, association, corporation, organization, or other combination of persons must receive a certification from each contributor that:

(a) The contribution is not financed in any part by a foreign national; and

(b) Foreign nationals are not involved in making decisions regarding the contribution in any way.

(2) The certifications must be maintained for a period of no less than three years after the date of the applicable election.

(3) At the request of the commission, each candidate or committee required to comply with subsection (1) of this section must provide to the commission copies of the certifications maintained under this section.

NEW SECTION. Sec. 11. A new section is added to chapter 42.17A RCW to read as follows:

This act does not affect or modify the power of a local government to adopt an ordinance or regulation on matters governed by this act."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Salomon moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6152 and ask the House to recede therefrom.

MOTION

Senator Zeiger moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6152.

Senator Zeiger spoke in favor of the motion.

Senator Salomon spoke against the motion.

Senator Padden demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the motion by Senator Zeiger that the senate concur in the House amendments to Substitute Senate Bill No. 6152.

ROLL CALL

The Secretary called the roll on the motion by Senator Zeiger that the senate concur in House amendment(s) to Substitute Senate Bill No. 6152; the motion did not carry and the senate refused to concur in the House amendment(s) by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Braun, Brown, Fortunato, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senator Ericksen

The Senate having failed to concur in the House amendment(s), the President announced that the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6152 and the House was asked to recede therefrom.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6281 with the following amendment(s): 6281-S2 AMH ENGR H5242E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. SHORT TITLE. This act may be known and cited as the Washington privacy act.

NEW SECTION. Sec. 2. LEGISLATIVE FINDINGS. (1) The legislature finds that the people of Washington regard their privacy as a fundamental right and an essential element of their individual freedom. Washington's Constitution explicitly provides the right to privacy, and fundamental privacy rights have long been and continue to be integral to protecting Washingtonians and to safeguarding our democratic republic.

(2) Ongoing advances in technology have produced an exponential growth in the volume and variety of personal data being generated, collected, stored, and analyzed, which presents both promise and potential peril. The ability to harness and use data in positive ways is driving innovation and brings beneficial technologies to society; however, it has also created risks to privacy and freedom. The unregulated and unauthorized use and disclosure of personal information and loss of privacy can have devastating impacts, ranging from financial fraud, identity theft, and unnecessary costs, to personal time and finances, to destruction of property, harassment, reputational damage, emotional distress, and physical harm.

(3) Given that technological innovation and new uses of data can help solve societal problems and improve quality of life, the legislature seeks to shape responsible public policies where innovation and protection of individual privacy coexist. The legislature notes that our federal authorities have not developed or adopted into law regulatory or legislative solutions that give consumers control over their privacy. In contrast, the European Union's general data protection regulation has continued to influence data privacy policies and practices of those businesses competing in global markets. In the absence of federal standards, Washington and other states across the United States are analyzing elements of the European Union's general data protection regulation to enact state-based data privacy regulatory protections.

(4) With this act, Washington state will be among the first tier of states giving consumers the ability to protect their own rights to privacy and requiring companies to be responsible custodians of data as technological innovations emerge. This act does so by

explicitly providing consumers the right to access, correction, and deletion of personal data, as well as the right to opt out of the collection and use of personal data for certain purposes. These rights will add to, and not subtract from, the consumer protection rights that consumers already have under Washington state law.

(5) Additionally, this act imposes affirmative obligations upon companies to safeguard personal data and provide clear, understandable, and transparent information to consumers about how their personal data are used. It strengthens compliance and accountability by requiring data protection assessments in the collection and use of personal data. Finally, it empowers the state attorney general to obtain and evaluate a company's data protection assessments, to impose penalties where violations occur, and to prevent against future violations.

(6) The legislature also encourages the state office of privacy and data protection to monitor the development of universal privacy controls that communicate a consumer's affirmative, freely given, and unambiguous choice to opt out of the processing of personal data concerning the consumer for the purposes of targeted advertising, the sale of personal data, or profiling in furtherance of decisions that produce legal effects concerning the consumer or similarly significant effects concerning consumers.

(7) The legislature recognizes the unique business needs of institutions of higher education and nonprofit corporations. However, these entities control and process an extraordinary amount of personal data and consumers should be afforded the rights provided by this act regarding personal data. Therefore, it is the intent of the legislature to delay the date of application for these entities by three years in order to provide sufficient time to develop a plan to comply with the provisions of this act.

NEW SECTION. Sec. 3. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means a legal entity that controls, is controlled by, or is under common control with, that other legal entity. For these purposes, "control" or "controlled" means ownership of, or the power to vote, more than fifty percent of the outstanding shares of any class of voting security of a company; control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or the power to exercise a controlling influence over the management of a company.

(2) "Authenticate" means to use reasonable means to determine that a request to exercise any of the rights in section 6 (1) through (4) of this act is being made by the consumer who is entitled to exercise such rights with respect to the personal data at issue.

(3) "Business associate" has the same meaning as in Title 45 C.F.R., established pursuant to the federal health insurance portability and accountability act of 1996.

(4) "Child" means any natural person under thirteen years of age.

(5) "Consent" means a clear affirmative act signifying a freely given, specific, informed, and unambiguous indication of a consumer's agreement to the processing of personal data relating to the consumer, such as by a written statement, including by electronic means, or other clear affirmative action.

(6) "Consumer" means a natural person who is a Washington resident acting only in an individual or household context, including buying and selling in an individual or household context. It does not include a natural person acting in a commercial or employment context.

(7) "Controller" means the natural or legal person which, alone or jointly with others, determines the purposes and means of the processing of personal data.

(8) "Covered entity" has the same meaning as in Title 45 C.F.R., established pursuant to the federal health insurance

portability and accountability act of 1996.

(9) "Decisions that produce legal effects concerning a consumer or similarly significant effects concerning a consumer" means decisions that result in the provision or denial of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities, such as food and water.

(10) "Deidentified data" means data that cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable natural person, or a device or household linked to such person, provided that the controller that possesses the data: (a) Takes reasonable measures to ensure that the data cannot be associated with a natural person, or a device or household linked to such person; (b) publicly commits to maintain and use the data only in a deidentified fashion and not attempt to reidentify the data; and (c) contractually obligates any recipients of the information to comply with all provisions of this subsection.

(11) "Health care facility" has the same meaning as in RCW 70.02.010.

(12) "Health care information" has the same meaning as in RCW 70.02.010.

(13) "Health care provider" has the same meaning as in RCW 70.02.010.

(14) "Identified or identifiable natural person" means a person who can be readily identified, directly or indirectly.

(15) "Institutions of higher education" has the same meaning as in RCW 28B.92.030.

(16) "Local government" has the same meaning as in RCW 39.46.020.

(17) "Meaningful human review" means review or oversight by one or more individuals who are trained in accordance with section 17(8) of this act and who have the authority to alter the decision under review.

(18) "Nonprofit corporation" has the same meaning as in RCW 24.03.005.

(19) "Ongoing surveillance" means tracking the physical movements of a specified individual through one or more public places over time, whether in real time or through application of a facial recognition service to historical records. It does not include a single recognition or attempted recognition of an individual if no attempt is made to subsequently track that individual's movement over time after the individual has been recognized.

(20)(a) "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable natural person. "Personal data" does not include deidentified data or publicly available information.

(b) For purposes of this subsection, "publicly available information" means information that is lawfully made available from federal, state, or local government records.

(21) "Process" or "processing" means any operation or set of operations which are performed on personal data or on sets of personal data, whether or not by automated means, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(22) "Processor" means a natural or legal person who processes personal data on behalf of a controller.

(23) "Profiling" means any form of automated processing of personal data to evaluate, analyze, or predict personal aspects concerning an identified or identifiable natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(24) "Protected health information" has the same meaning as in Title 45 C.F.R., established pursuant to the federal health insurance portability and accountability act of 1996.

(25) "Pseudonymous data" means personal data that cannot be

attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data are not attributed to an identified or identifiable natural person. Photographs or other graphic or visual depictions of natural persons, whether or not in electronic form, cannot be pseudonymous within the meaning of this subsection.

(26)(a) "Sale," "sell," or "sold" means the exchange of personal data for monetary or other valuable consideration by the controller to a third party.

(b) "Sale" does not include the following: (i) The disclosure of personal data to a processor who processes the personal data on behalf of the controller; (ii) the disclosure of personal data to a third party with whom the consumer has a direct relationship for purposes of providing a product or service requested by the consumer; (iii) the disclosure or transfer of personal data to an affiliate of the controller; (iv) the disclosure of information that the consumer (A) intentionally made available to the general public via a channel of mass media, and (B) did not restrict to a specific audience; or (v) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

(27) "Security or safety purpose" means physical security, protection of consumer data, safety, fraud prevention, or asset protection.

(28) "Sensitive data" means (a) personal data revealing racial or ethnic origin, religious beliefs, mental or physical health condition or diagnosis, sexual orientation, or citizenship or immigration status; (b) the processing of genetic or biometric data for the purpose of uniquely identifying a natural person; (c) the personal data from a known child; or (d) specific geolocation data. "Sensitive data" is a form of personal data.

(29) "Serious criminal offense" means any felony under chapter 9.94A RCW or an offense enumerated by Title 18 U.S.C. Sec. 2516.

(30) "Specific geolocation data" means information derived from technology, including, but not limited to, global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of a natural person with the precision and accuracy below one thousand seven hundred fifty feet. Specific geolocation data excludes the content of communications.

(31) "State agency" has the same meaning as in RCW 43.105.020.

(32) "Targeted advertising" means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from a consumer's activities over time and across nonaffiliated web sites or online applications to predict such consumer's preferences or interests. It does not include advertising: (a) Based on activities within a controller's own web sites or online applications; (b) based on the context of a consumer's current search query or visit to a web site or online application; or (c) to a consumer in response to the consumer's request for information or feedback.

(33) "Third party" means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

NEW SECTION. Sec. 4. JURISDICTIONAL SCOPE.

(1) This chapter applies to legal entities that conduct business in Washington or produce products or services that are targeted to residents of Washington, and that satisfy one or more of the following thresholds:

(a) During a calendar year, controls or processes personal data of one hundred thousand consumers or more; or

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(b) Derives over twenty-five percent of gross revenue from the sale of personal data and processes or controls personal data of twenty-five thousand consumers or more.

(2) This chapter does not apply to:

(a) State agencies, local governments, or tribes;

(b) Municipal corporations;

(c) Information that meets the definition of:

(i) Protected health information for purposes of the federal health insurance portability and accountability act of 1996 and related regulations;

(ii) Health care information for purposes of chapter 70.02 RCW;

(iii) Patient identifying information for purposes of 42 C.F.R. Part 2, established pursuant to 42 U.S.C. Sec. 290dd-2;

(iv) Identifiable private information for purposes of the federal policy for the protection of human subjects, 45 C.F.R. Part 46; identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by the international council for harmonisation; the protection of human subjects under 21 C.F.R. Parts 50 and 56; or personal data used or shared in research conducted in accordance with one or more of the requirements set forth in this subsection;

(v) Information and documents created specifically for, and collected and maintained by:

(A) A quality improvement committee for purposes of RCW 43.70.510, 70.230.080, or 70.41.200;

(B) A peer review committee for purposes of RCW 4.24.250;

(C) A quality assurance committee for purposes of RCW 74.42.640 or 18.20.390;

(D) A hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections for purposes of RCW 43.70.056, a notification of an incident for purposes of RCW 70.56.040(5), or reports regarding adverse events for purposes of RCW 70.56.020(2)(b);

(vi) Information and documents created for purposes of the federal health care quality improvement act of 1986, and related regulations;

(vii) Patient safety work product for purposes of 42 C.F.R. Part 3, established pursuant to 42 U.S.C. Sec. 299b-21 through 299b-26; or

(viii) Information that is (A) deidentified in accordance with the requirements for deidentification set forth in 45 C.F.R. Part 164, and (B) derived from any of the health care-related information listed in this subsection (2)(c);

(d) Information originating from, and intermingled to be indistinguishable with, information under (c) of this subsection that is maintained by:

(i) A covered entity or business associate as defined by the health insurance portability and accountability act of 1996 and related regulations;

(ii) A health care facility or health care provider as defined in RCW 70.02.010; or

(iii) A program or a qualified service organization as defined by 42 C.F.R. Part 2, established pursuant to 42 U.S.C. Sec. 290dd-2;

(e) Information used only for public health activities and purposes as described in 45 C.F.R. Sec. 164.512;

(f)(i) An activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency, as defined in Title 15 U.S.C. Sec. 1681a(f), by a furnisher of information, as set forth in Title 15 U.S.C. Sec. 1681s-2, who

provides information for use in a consumer report, as defined in Title 15 U.S.C. Sec. 1681a(d), and by a user of a consumer report, as set forth in Title 15 U.S.C. Sec. 1681b.

(ii) (f)(i) of this subsection shall apply only to the extent that such activity involving the collection, maintenance, disclosure, sale, communication, or use of such information by that agency, furnisher, or user is subject to regulation under the fair credit reporting act, Title 15 U.S.C. Sec. 1681 et seq., and the information is not collected, maintained, used, communicated, disclosed, or sold except as authorized by the fair credit reporting act;

(g) Personal data collected and maintained for purposes of chapter 43.71 RCW;

(h) Personal data collected, processed, sold, or disclosed pursuant to the federal Gramm-Leach-Bliley act (P.L. 106-102), and implementing regulations, if the collection, processing, sale, or disclosure is in compliance with that law;

(i) Personal data collected, processed, sold, or disclosed pursuant to the federal driver's privacy protection act of 1994 (18 U.S.C. Sec. 2721 et seq.), if the collection, processing, sale, or disclosure is in compliance with that law;

(j) Personal data regulated by the federal family education rights and privacy act, 20 U.S.C. Sec. 1232g and its implementing regulations;

(k) Personal data regulated by the student user privacy in education rights act, chapter 28A.604 RCW;

(l) Personal data collected, processed, sold, or disclosed pursuant to the federal farm credit act of 1971 (as amended in 12 U.S.C. Sec. 2001-2279cc) and its implementing regulations (12 C.F.R. Part 600 et seq.) if the collection, processing, sale, or disclosure is in compliance with that law; or

(m) Data maintained for employment records purposes.

(3) Controllers that are in compliance with the verifiable parental consent mechanisms under the children's online privacy protection act, Title 15 U.S.C. Sec. 6501 through 6506 and its implementing regulations, shall be deemed compliant with any obligation to obtain parental consent under this chapter.

(4) Payment-only credit, check, or cash transactions where no data about consumers are retained do not count as "consumers" for purposes of subsection (1) of this section.

NEW SECTION. Sec. 5. RESPONSIBILITY ACCORDING TO ROLE. (1) Controllers and processors are responsible for meeting their respective obligations established under this chapter.

(2) Processors are responsible under this chapter for adhering to the instructions of the controller and assisting the controller to meet its obligations under this chapter. Such assistance shall include the following:

(a) Taking into account the nature of the processing, the processor shall assist the controller by appropriate technical and organizational measures, insofar as this is possible, for the fulfillment of the controller's obligation to respond to consumer requests to exercise their rights pursuant to section 6 of this act; and

(b) Taking into account the nature of processing and the information available to the processor, the processor shall assist the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of the security of the system pursuant to RCW 19.255.010; and shall provide information to the controller necessary to enable the controller to conduct and document any data protection assessments required by section 9 of this act.

(3) Notwithstanding the instructions of the controller, a processor shall:

(a) Implement and maintain reasonable security procedures and

practices to protect personal data, taking into account the context in which the personal data are to be processed;

(b) Ensure that each person processing the personal data is subject to a duty of confidentiality with respect to the data; and

(c) Engage a subcontractor only after providing the controller with an opportunity to object and pursuant to a written contract in accordance with subsection (5) of this section that requires the subcontractor to meet the obligations of the processor with respect to the personal data.

(4) Processing by a processor shall be governed by a contract between the controller and the processor that is binding on both parties and that sets out the processing instructions to which the processor is bound, including the nature and purpose of the processing, the type of personal data subject to the processing, the duration of the processing, and the obligations and rights of both parties. In addition, the contract shall include the requirements imposed by this subsection and subsection (3) of this section, as well as the following requirements:

(a) At the choice of the controller, the processor shall delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

(b)(i) The processor shall make available to the controller all information necessary to demonstrate compliance with the obligations in this chapter; and (ii) the processor shall allow for, and contribute to, reasonable audits and inspections by the controller or the controller's designated auditor; alternatively, the processor may, with the controller's consent, arrange for a qualified and independent auditor to conduct, at least annually and at the processor's expense, an audit of the processor's policies and technical and organizational measures in support of the obligations under this chapter using an appropriate and accepted control standard or framework and audit procedure for such audits as applicable, and shall provide a report of such audit to the controller upon request.

(5) In no event shall any contract relieve a controller or a processor from the liabilities imposed on them by virtue of its role in the processing relationship as defined by this chapter.

(6) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data are to be processed. A person that is not limited in its processing of personal data pursuant to a controller's instructions, or that fails to adhere to such instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, it is a controller with respect to such processing.

NEW SECTION. Sec. 6. CONSUMER PERSONAL DATA RIGHTS. Consumers may exercise the rights set forth in this section by submitting a request, at any time, to a controller specifying which rights the consumer wishes to exercise. In the case of processing personal data concerning a known child, the parent or legal guardian of the known child shall exercise the rights of this chapter on the child's behalf. Where a controller processes personal data concerning a consumer subject to guardianship, conservatorship, or other protective arrangement under chapter 11.130 RCW, the controller must allow the guardian or the conservator to exercise the rights of this chapter on the consumer's behalf. Except as provided in this chapter, the controller must comply with a request to exercise the rights pursuant to subsections (1) through (5) of this section.

(1) *Right of access.* A consumer has the right to confirm whether or not a controller is processing personal data concerning

the consumer and access such personal data.

(2) *Right to correction.* A consumer has the right to correct inaccurate personal data concerning the consumer, taking into account the nature of the personal data and the purposes of the processing of the personal data.

(3) *Right to deletion.* A consumer has the right to delete personal data concerning the consumer.

(4) *Right to data portability.* A consumer has the right to obtain personal data concerning the consumer, which the consumer previously provided to the controller, in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means.

(5) *Right to opt out.* A consumer has the right to opt out of the processing of personal data concerning such consumer for purposes of targeted advertising, the sale of personal data, or profiling in furtherance of decisions that produce legal effects concerning a consumer or similarly significant effects concerning a consumer.

(6) *Responding to consumer requests.* (a) A controller must inform a consumer of any action taken on a request under subsections (1) through (5) of this section without undue delay and in any event within forty-five days of receipt of the request. That period may be extended once by forty-five additional days where reasonably necessary, taking into account the complexity and number of the requests. The controller must inform the consumer of any such extension within forty-five days of receipt of the request, together with the reasons for the delay.

(b) If a controller does not take action on the request of a consumer, the controller must inform the consumer without undue delay and at the latest within forty-five days of receipt of the request of the reasons for not taking action and instructions for how to appeal the decision with the controller as described in subsection (7) of this section.

(c) Information provided under this section must be provided by the controller free of charge, up to twice annually to the consumer. Where requests from a consumer are manifestly unfounded or excessive, in particular because of their repetitive character, the controller may either: (i) Charge a reasonable fee to cover the administrative costs of complying with the request, or (ii) refuse to act on the request. The controller bears the burden of demonstrating the manifestly unfounded or excessive character of the request.

(d) A controller is not required to comply with a request to exercise any of the rights under subsections (1) through (4) of this section if the controller is unable to authenticate the request using commercially reasonable efforts. In such cases, the controller may request the provision of additional information reasonably necessary to authenticate the request.

(7)(a) Controllers must establish an internal process whereby consumers may appeal a refusal to take action on a request to exercise any of the rights under subsections (1) through (5) of this section within a reasonable period of time after the consumer's receipt of the notice sent by the controller under subsection (6)(b) of this section.

(b) The appeal process must be conspicuously available and as easy to use as the process for submitting such requests under this section.

(c) Within thirty days of receipt of an appeal, a controller must inform the consumer of any action taken or not taken in response to the appeal, along with a written explanation of the reasons in support thereof. That period may be extended by sixty additional days where reasonably necessary, taking into account the complexity and number of the requests serving as the basis for the appeal. The controller must inform the consumer of any such

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extension within thirty days of receipt of the appeal, together with the reasons for the delay. The controller must also provide the consumer with an email address or other online mechanism through which the consumer may submit the appeal, along with any action taken or not taken by the controller in response to the appeal and the controller's written explanation of the reasons in support thereof, to the attorney general.

(d) When informing a consumer of any action taken or not taken in response to an appeal pursuant to (c) of this subsection, the controller must clearly and prominently ask the consumer whether the consumer consents to having the controller submit the appeal, along with any action taken or not taken by the controller in response to the appeal and must, upon request, provide the controller's written explanation of the reasons in support thereof, to the attorney general. If the consumer provides such consent, the controller must submit such information to the attorney general.

NEW SECTION. Sec. 7. PROCESSING DEIDENTIFIED DATA OR PSEUDONYMOUS DATA. (1) This chapter does not require a controller or processor to do any of the following solely for purposes of complying with this chapter:

- (a) Reidentify deidentified data;
- (b) Comply with an authenticated consumer request to access, correct, delete, or port personal data pursuant to section 6 (1) through (4) of this act, if all of the following are true:
 - (i)(A) The controller is not reasonably capable of associating the request with the personal data, or (B) it would be unreasonably burdensome for the controller to associate the request with the personal data;
 - (ii) The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer; and
 - (iii) The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this section; or
- (c) Maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

(2) The rights contained in section 6 (1) through (4) of this act do not apply to pseudonymous data in cases where the controller is able to demonstrate any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing such information.

(3) A controller that uses pseudonymous data or deidentified data must exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or deidentified data are subject, and must take appropriate steps to address any breaches of contractual commitments.

NEW SECTION. Sec. 8. RESPONSIBILITIES OF CONTROLLERS. (1) *Transparency.*

- (a) Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:
 - (i) The categories of personal data processed by the controller;
 - (ii) The purposes for which the categories of personal data are processed;
 - (iii) How and where consumers may exercise the rights contained in section 6 of this act, including how a consumer may appeal a controller's action with regard to the consumer's request;
 - (iv) The categories of personal data that the controller shares with third parties, if any; and
 - (v) The categories of third parties, if any, with whom the controller shares personal data.

(b) If a controller sells personal data to third parties or processes personal data for targeted advertising, it must clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing, in a clear and conspicuous manner.

(c) Controllers shall establish, and shall describe in the privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their rights under this chapter. Such means shall take into account the ways in which consumers interact with the controller, the need for secure and reliable communication of such requests, and the controller's ability to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise a right, but a controller may require a consumer to use an existing account to exercise the consumer's rights under this chapter.

(2) *Purpose specification.* A controller's collection of personal data must be limited to what is reasonably necessary in relation to the purposes for which such data are processed, as disclosed to the consumer.

(3) *Data minimization.* A controller's collection of personal data must be only as reasonably necessary to provide services requested by a consumer, to conduct an activity that a consumer has requested, or to verify requests made pursuant to section 6 of this act.

(4) *Avoid secondary use.* Except as provided in this chapter, a controller may not process personal data for purposes that are not reasonably necessary to, or compatible with, the purposes for which such personal data are processed, as disclosed to the consumer, unless the controller obtains the consumer's consent.

(5) *Security.* A controller shall establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue.

(6) *Nondiscrimination.* A controller may not process personal data in violation of state and federal laws that prohibit unlawful discrimination against consumers. A controller shall not discriminate against a consumer for exercising any of the rights contained in this chapter, including denying goods or services to the consumer, charging different prices or rates for goods or services, and providing a different level of quality of goods and services to the consumer. This subsection shall not prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the offering is in connection with a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program. A controller may not sell personal data to a third-party controller as part of such a program unless: (a) The sale is reasonably necessary to enable the third party to provide a benefit to which the consumer is entitled; (b) the sale of personal data to third parties is clearly disclosed in the terms of the program; and (c) the third party uses the personal data only for purposes of facilitating such benefit to which the consumer is entitled and does not retain or otherwise use or disclose the personal data for any other purpose.

(7) *Sensitive data.* Except as otherwise provided in this act, a controller may not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of personal data concerning a known child, without obtaining consent from the child's parent or lawful guardian, in accordance with the children's online privacy protection act requirements.

(8) *Nonwaiver of consumer rights.* Any provision of a contract

or agreement of any kind that purports to waive or limit in any way a consumer's rights under this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

NEW SECTION. Sec. 9. DATA PROTECTION ASSESSMENTS. (1) Controllers must conduct and document a data protection assessment of each of the following processing activities involving personal data:

(a) The processing of personal data for purposes of targeted advertising;

(b) The sale of personal data;

(c) The processing of personal data for purposes of profiling, where such profiling presents a reasonably foreseeable risk of: (i) Unfair or deceptive treatment of, or disparate impact on, consumers; (ii) financial, physical, or reputational injury to consumers; (iii) a physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where such intrusion would be offensive to a reasonable person; or (iv) other substantial injury to consumers;

(d) The processing of sensitive data; and

(e) Any processing activities involving personal data that present a heightened risk of harm to consumers.

Such data protection assessments must take into account the type of personal data to be processed by the controller, including the extent to which the personal data are sensitive data, and the context in which the personal data are to be processed.

(2) Data protection assessments conducted under subsection (1) of this section must identify and weigh the benefits that may flow directly and indirectly from the processing to the controller, consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with such processing, as mitigated by safeguards that can be employed by the controller to reduce such risks. The use of deidentified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed, must be factored into this assessment by the controller.

(3) The attorney general may request, in writing, that a controller disclose any data protection assessment that is relevant to an investigation conducted by the attorney general. The controller must make a data protection assessment available to the attorney general upon such a request. The attorney general may evaluate the data protection assessments for compliance with the responsibilities contained in section 8 of this act and with other laws including, but not limited to, chapter 19.86 RCW. Data protection assessments are confidential and exempt from public inspection and copying under chapter 42.56 RCW. The disclosure of a data protection assessment pursuant to a request from the attorney general under this subsection does not constitute a waiver of the attorney-client privilege or work product protection with respect to the assessment and any information contained in the assessment.

(4) Data protection assessments conducted by a controller for the purpose of compliance with other laws or regulations may qualify under this section if they have a similar scope and effect.

NEW SECTION. Sec. 10. LIMITATIONS AND APPLICABILITY. (1) The obligations imposed on controllers or processors under this chapter do not restrict a controller's or processor's ability to:

(a) Comply with federal, state, or local laws, rules, or regulations;

(b) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;

(c) Cooperate with law enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws,

rules, or regulations;

(d) Investigate, establish, exercise, prepare for, or defend legal claims;

(e) Provide a product or service specifically requested by a consumer, perform a contract to which the consumer is a party, or take steps at the request of the consumer prior to entering into a contract;

(f) Take immediate steps to protect an interest that is essential for the life of the consumer or of another natural person, and where the processing cannot be manifestly based on another legal basis;

(g) Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;

(h) Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws if the deletion of the information is likely to render impossible or seriously impair the achievement of the research and the consumer provided consent; or

(i) Assist another controller, processor, or third party with any of the obligations under this subsection.

(2) The obligations imposed on controllers or processors under this chapter do not restrict a controller's or processor's ability to collect, use, or retain data to:

(a) Conduct internal research solely to improve or repair products, services, or technology;

(b) Identify and repair technical errors that impair existing or intended functionality; or

(c) Perform solely internal operations that are reasonably aligned with the expectations of the consumer based on the consumer's existing relationship with the controller, or are otherwise compatible with processing in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

(3) The obligations imposed on controllers or processors under this chapter do not apply where compliance by the controller or processor with this chapter would violate an evidentiary privilege under Washington law and do not prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under Washington law as part of a privileged communication.

(4) A controller or processor that discloses personal data to a third-party controller or processor in compliance with the requirements of this chapter is not in violation of this chapter if the recipient processes such personal data in violation of this chapter, provided that, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation. A third-party controller or processor receiving personal data from a controller or processor in compliance with the requirements of this chapter is likewise not in violation of this chapter for the obligations of the controller or processor from which it receives such personal data.

(5) Obligations imposed on controllers and processors under this chapter shall not:

(a) Adversely affect the rights or freedoms of any persons, such as exercising the right of free speech pursuant to the First Amendment to the United States Constitution; or

(b) Apply to the processing of personal data by a natural person in the course of a purely personal or household activity.

(6) Personal data that are processed by a controller pursuant to this section must not be processed for any purpose other than

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those expressly listed in this section. Personal data that are processed by a controller pursuant to this section may be processed solely to the extent that such processing is: (i) Necessary, reasonable, and proportionate to the purposes listed in this section; and (ii) adequate, relevant, and limited to what is necessary in relation to the specific purpose or purposes listed in this section. Furthermore, personal data that are collected, used, or retained pursuant to subsection (2) of this section must, insofar as possible, taking into account the nature and purpose or purposes of such collection, use, or retention, be subjected to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data, and to reduce reasonably foreseeable risks of harm to consumers relating to such collection, use, or retention of personal data.

(7) If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements in subsection (6) of this section.

(8) Processing personal data solely for the purposes expressly identified in subsection (1)(a) through (d) or (g) of this section does not, by itself, make an entity a controller with respect to such processing.

NEW SECTION. Sec. 11. ENFORCEMENT. (1) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) Any controller or processor that violates this chapter is subject to an injunction and liable for a civil penalty of not more than seven thousand five hundred dollars for each violation.

NEW SECTION. Sec. 12. CONSUMER PRIVACY ACCOUNT. The consumer privacy account is created in the state treasury. All receipts from the imposition of civil penalties under this chapter must be deposited into the account except for the recovery of costs and attorneys' fees accrued by the attorney general in enforcing this chapter. Moneys in the account may be spent only after appropriation. Moneys in the account may only be used for the purposes of the office of privacy and data protection as created under RCW 43.105.369, and may not be used to supplant general fund appropriations to the agency.

NEW SECTION. Sec. 13. PREEMPTION. This chapter supersedes and preempts laws, ordinances, regulations, or the equivalent adopted by any local entity regarding the processing of personal data by controllers or processors. Laws, ordinances, or regulations regarding the processing of personal data by controllers or processors that are adopted by any local entity prior to the effective date of this chapter are not superseded or preempted.

NEW SECTION. Sec. 14. THE OFFICE OF PRIVACY AND DATA PROTECTION REPORT. (1) By December 1, 2020, the office of privacy and data protection shall prepare and post to its public web site a report that summarizes the data protected and not protected by this chapter. At a minimum, the report must include, with reasonable detail, a list of the types of information that are publicly available from local, state, and federal government sources, and an inventory of information to which this chapter does not apply by virtue of a limitation in section 4 of this act. The report may be updated as new information becomes available to the office.

(2) The office of privacy and data protection may consult with stakeholders and provide recommendations regarding the appropriate breadth and number of circumstances that limit the obligations of controllers and processors, and in particular whether those limits should apply for a prescribed period of time or in perpetuity.

(3) The office of privacy and data protection may consult with stakeholders, including those in the industry, academia, and consumer and privacy advocacy, regarding the scope and coverage of this chapter.

NEW SECTION. Sec. 15. ATTORNEY GENERAL REPORT. (1) The attorney general shall compile a report evaluating the liability and enforcement provisions of this chapter including, but not limited to, the effectiveness of its efforts to enforce this chapter, and any recommendations for changes to such provisions.

(2) The attorney general shall submit the report to the governor and the appropriate committees of the legislature by July 1, 2022.

NEW SECTION. Sec. 16. JOINT RESEARCH INITIATIVES. The governor may enter into agreements with the governments of the Canadian province of British Columbia and the states of California and Oregon for the purpose of sharing personal data or personal information by public bodies across national and state borders to enable collaboration for joint data-driven research initiatives. Such agreements must provide reciprocal protections that the respective governments agree appropriately safeguard the data.

NEW SECTION. Sec. 17. This chapter does not apply to institutions of higher education or nonprofit corporations until July 31, 2024.

NEW SECTION. Sec. 18. Sections 1 through 17 and 19 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 19. This act takes effect July 31, 2021."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Carlyle moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 6281 and ask the House to recede therefrom.

Senator Carlyle spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Carlyle that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 6281 and ask the House to recede therefrom.

The motion by Senator Carlyle carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 6281 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6404 with the following amendment(s): 6404-SE AMH ENGR H5412.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1) By April 1, 2021, and annually thereafter, for individual and group health plans issued by a carrier that has written at least one percent of the total accident and health insurance premiums written by all companies authorized to offer accident and health insurance in Washington in the most recently available year, the carrier shall report to the commissioner the following aggregated and deidentified data related to the carrier's prior authorization practices and experience for the prior plan year:

- (a) Lists of the ten inpatient medical or surgical codes:
 - (i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; and
 - (iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;
- (b) Lists of the ten outpatient medical or surgical codes:
 - (i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code; and
 - (iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;
- (c) Lists of the ten inpatient mental health and substance use disorder service codes:
 - (i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;
- (d) Lists of the ten outpatient mental health and substance use disorder service codes:
 - (i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests

for each code and the percent of requests that were initially denied and then subsequently approved;

- (e) Lists of the ten durable medical equipment codes:
 - (i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;
 - (f) Lists of the ten diabetes supplies and equipment codes:
 - (i) With the highest total number of prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (ii) With the highest percentage of approved prior authorization requests during the previous plan year, including the total number of prior authorization requests for each code and the percent of approved requests for each code;
 - (iii) With the highest percentage of prior authorization requests that were initially denied and then subsequently approved on appeal, including the total number of prior authorization requests for each code and the percent of requests that were initially denied and then subsequently approved for each code;
 - (g) The average determination response time in hours for prior authorization requests to the carrier with respect to each code reported under (a) through (f) of this subsection for each of the following categories of prior authorization:
 - (i) Expedited decisions;
 - (ii) Standard decisions; and
 - (iii) Extenuating circumstances decisions.
- (2) By July 1, 2021, and annually thereafter, the commissioner shall aggregate and deidentify the data collected under subsection (1) of this section into a standard report and may not identify the name of the carrier that submitted the data. The commissioner must make the report available to interested parties.
- (3) The commissioner may request additional information from carriers reporting data under this section.
- (4) The commissioner may adopt rules to implement this section. In adopting rules, the commissioner must consult stakeholders including carriers, health care practitioners, health care facilities, and patients.
- (5) For the purpose of this section, "prior authorization" means a mandatory process that a carrier or its designated or contracted representative requires a provider or facility to follow before a service is delivered, to determine if a service is a benefit and meets the requirements for medical necessity, clinical appropriateness, level of care, or effectiveness in relation to the applicable plan, including any term used by a carrier or its designated or contracted representative to describe this process."
- Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Frockt moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6404 and ask the House to recede therefrom.

Senator Frockt spoke in favor of the motion.

POINT OF ORDER

Senator Becker: “Thank you Mr. President. I have a concern in that I am not sure what changes were made on this bill as on the bill report and on page 165 there is no description in the book about the changes. We’ve had a discussion but may I ask the sponsor of the bill to yield to a question?”

Senator Frockt: “I would be happy to.”

Senator Becker: “Is the workgroup gone from this bill?”

Senator Frockt: “Thank you for the question and thank you Senator for the question. The changes that the House made were basically three: the workgroup was removed, there was some concern over the composition and the cost of that and I think was largely agreed to by the various stakeholders that had been involved in negotiating. There were two other amendments that were adopted: one, add durable medical goods and authorizations as one set of data that insurance companies will report back to us on, how frequently and how often do they deny authorization in those situations; and the second one relating to diabetes related medical requests, if you will, and in part of those two amendments was this also the removal of the date. So, my basic feeling at this point is that the bill is in good shape. I think it will accomplish the basic ends we wanted and that the two things that were added were fine. The issue was the day of reporting.”

Senator Becker: “Thank you. I want to say thank you very much. I would appreciate it though, that our books would give us the information. Some of the bills are giving us that information and some of them are not included in here, so that’s why I asked that question.”

PARLIAMENTARY INQUIRY

Senator Padden: “Well, it is very similar to Senator Becker’s point. As far as I can remember in past sessions, our workbooks always had the difference between the House and the Senate and so it is somewhat unnerving that most of them do but not all of them have that information. There’s quite a few that do not. And I wondered if there was some explanation as to how it’s chosen which bills have the difference of the House amendments and which do not?”

REPLY BY THE PRESIDENT

President Habib: “Senator Padden, thank you for your, indeed in fact that would be, both of those would be points of personal privilege, just in case anybody cares. But, it is well taken, both Senator Becker and Senator Padden’s points are well taken. And so, I have been told that the Secretary of the Senate, his staff are now checking all the other bills that are on the concurrence calendar to make sure that the effect statement of the House amendments are available to members. And so, I would encourage members to bring those to us at the bar, those issues, but also, if there is a question of timing, to bring them to the majority floor leader, if that is a political question in terms of timing, if that information is not available. But I will encourage the Senate to schedule these in such a way as to make sure members have all the information that they need. It is also, I’ve been told that it is also available online so members can ask for assistance, if they need assistance, to find it online.”

The President declared the question before the Senate to be the motion by Senator Frockt that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6404 and ask the House to recede therefrom.

The motion by Senator Frockt carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6404 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 7, 2020

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 1390 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Rolfes moved that the Senate insist on its position in the House amendment(s) to Engrossed House Bill No. 1390 and request of the House a conference thereon.

On motion of Senator Rolfes, the motion by Senator Rolfes that the Senate insist on its position and request of the House a conference was withdrawn.

MOTION

Senator Rolfes moved that the Senate insist on its position in the Senate amendment(s) to Engrossed House Bill No. 1390 and ask the House to concur thereon.

Senator Rolfes spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Rolfes that the Senate insist on its position in the Senate amendment(s) to Engrossed House Bill No. 1390 and ask the House to concur thereon.

The motion by Senator Rolfes carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed House Bill No. 1390 and asked the House to concur thereon by voice vote.

MESSAGE FROM THE HOUSE

March 7, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5323 with the following amendment(s): 5323-S.E AMH CHAP H5413.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) State policy has long placed waste reduction as the highest priority in the collection, handling, and management of solid waste. Reducing plastic bag waste holds particular importance among state waste reduction efforts for a number of reasons:

(a) Single-use plastic carryout bags are made of nonrenewable resources and never biodegrade; instead, over time, they break down into tiny particles. Single-use plastic carryout bags, and the particles they break into, are carried into rivers, lakes, Puget Sound, and the world's oceans, posing a threat to animal life and the food chain;

(b) Plastic bags are one of the most commonly found items that litter state roads, beaches, and other public spaces; and

(c) Even when plastic bags avoid the common fate of becoming litter, they are a drain on public resources and a burden on environment and resource conservation goals. For example, if plastic bags are disposed of in commingled recycling systems rather than as garbage or in retailer drop-off programs, they clog processing and sorting machinery, resulting in missorted materials and costly inefficiencies that are ultimately borne by utility ratepayers. Likewise, when green or brown-tinted plastic bags confuse consumers into attempting to dispose of them as compost, the resultant plastic contamination undercuts the ability to use the compost in gardens, farms, landscaping, and surface water and transportation projects.

(2) Alternatives to single-use plastic carryout bags are convenient, functional, widely available, and measure as superior across most environmental performance metrics. Alternatives to single-use plastic carryout bags feature especially superior environmental performance with respect to litter and marine debris, since plastic bags do not biodegrade.

(3) As of 2020, many local governments in Washington have shown leadership in regulating the use of single-use plastic carryout bags. This local leadership has shown the value of establishing state standards that will streamline regulatory inconsistency and reduce burdens on covered retailers caused by a patchwork of inconsistent local requirements across the state.

(4) Data provided from grocery retailers has shown that requests for paper bags have skyrocketed where plastic bag bans have been implemented. To accommodate the anticipated consequences of a statewide plastic bag ban, it is rational to expect additional capacity will be needed in Washington state for manufacturing paper bags. The legislature intends to provide that capacity by prioritizing and expediting siting and permitting of expansions or reconfiguring for paper manufacturing.

(5) Therefore, in order to reduce waste, litter, and marine pollution, conserve resources, and protect fish and wildlife, it is the intent of the legislature to:

- (a) Prohibit the use of single-use plastic carryout bags;
- (b) Require a pass-through charge on recycled content paper carryout bags and reusable carryout bags made of film plastic, to encourage shoppers to bring their own reusable carryout bags;
- (c) Require that bags provided by a retail establishment contain recycled content; and
- (d) Encourage the provision of reusable and recycled content paper carryout bags by retail establishments.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Carryout bag" means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases.

(2) "Department" means the department of ecology.

(3) "Pass-through charge" means a charge to be collected and retained by retail establishments from their customers when providing recycled content paper carryout bags and reusable carryout bags made of film plastic.

(4) "Recycled content paper carryout bag" means a paper carryout bag provided by a retail establishment to a customer that meets the requirements in section 3(6)(a) of this act.

(5) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides food, merchandise, goods, or materials directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.

(6) "Reusable carryout bag" means a carryout bag made of

cloth or other durable material with handles that is specifically designed and manufactured for long-term multiple reuse and meets the requirements of section 3(6)(b) of this act.

(7) "Single-use plastic carryout bag" means any carryout bag that is made from plastic that is designed and suitable only to be used once and disposed.

NEW SECTION. Sec. 3. (1) Beginning January 1, 2021, except as provided in this section and section 4 of this act, a retail establishment may not provide to a customer or a person at an event:

- (a) A single-use plastic carryout bag;
- (b) A paper carryout bag or reusable carryout bag made of film plastic that does not meet recycled content requirements; or
- (c) Beginning January 1, 2026, a reusable carryout bag made of film plastic with a thickness of less than four mils, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with section 7 of this act.

(2)(a) A retail establishment may provide a reusable carryout bag or a recycled content paper carryout bag of any size to a customer at the point of sale. A retail establishment may make reusable carryout bags available to customers through sale.

(b)(i) Until December 31, 2025, a retail establishment must collect a pass-through charge of eight cents for every recycled content paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (eight hundred eighty-two cubic inches) or greater or reusable carryout bag made of film plastic it provides, except as provided in subsection (5) of this section and section 4 of this act.

(ii) Beginning January 1, 2026, a retail establishment must collect a pass-through charge of twelve cents for reusable carryout bags made of film plastic and eight cents for recycled content paper carryout bags, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with section 7 of this act. It is the intent of the legislature for the 2025 legislature to reassess the amount of the pass-through charge authorized under this subsection (2)(b), taking into consideration the content of the report to the legislature under section 7 of this act.

(c) A retail establishment must keep all revenue from pass-through charges. The pass-through charge is a taxable retail sale. A retail establishment must show all pass-through charges on a receipt provided to the customer.

(3) Carryout bags provided by a retail establishment do not include:

- (a) Bags used by consumers inside stores to:
 - (i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;
 - (ii) Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:
 - (A) Frozen foods;
 - (B) Meat;
 - (C) Fish;
 - (D) Flowers; and
 - (E) Potted plants;
 - (iii) Contain unwrapped prepared foods or bakery goods;
 - (iv) Contain prescription drugs; or
 - (v) Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag; or

(b) Newspaper bags, mailing pouches, sealed envelopes, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

(4)(a) Any compostable film bag that a retail establishment

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provides to customers for products, including for products bagged in stores prior to checkout, must meet the requirements for compostable products and film bags in chapter 70.360 RCW.

(b) A retail establishment may not use or provide polyethylene or other noncompostable plastic bags for bagging of customer products in stores, as carryout bags, or for home delivery that do not meet the requirements for noncompostable products and film bags in chapter 70.360 RCW.

(5) Except as provided by local regulations enacted as of April 1, 2020, a retail establishment may provide a bag restricted under subsection (1) of this section from existing inventory until one year after the effective date of this section. The retail establishment, upon request by the department, must provide purchase invoices, distribution receipts, or other information documenting that the bag was acquired prior to the effective date of this section.

(6) For the purposes of this section:

(a) A recycled content paper carryout bag must:

(i) Contain a minimum of forty percent postconsumer recycled materials;

(ii) Be capable of composting, consistent with the timeline and specifications of the entire American society of testing materials D6868 and associated test methods that must be met, as it existed as of January 1, 2020; and

(iii) Display in print on the exterior of the paper bag the minimum percentage of postconsumer content.

(b) A reusable carryout bag must:

(i) Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(ii) Be machine washable or made from a durable material that may be cleaned or disinfected; and

(iii) If made of film plastic:

(A) Be made from a minimum of twenty percent postconsumer recycled content until July 1, 2022, and thereafter must be made from a minimum of forty percent postconsumer recycled content;

(B) Display in print on the exterior of the plastic bag the minimum percentage of postconsumer recycled content, the mil thickness, and that the bag is reusable; and

(C) Have a minimum thickness of no less than 2.25 mils until December 31, 2025, and beginning January 1, 2026, must have a minimum thickness of four mils.

(c) Except for the purposes of subsection (4) of this section, food banks and other food assistance programs are not retail establishments, but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

NEW SECTION. Sec. 4. It is a violation of section 3 of this act for any retail establishment to pay or otherwise reimburse a customer for any portion of the pass-through charge; provided that retail establishments may not collect a pass-through charge from anyone using a voucher or electronic benefits card issued under the women, infants, and children (WIC) or temporary assistance for needy families (TANF) support programs, or the federal supplemental nutrition assistance program (SNAP, also known as basic food), or the Washington state food assistance program (FAP).

NEW SECTION. Sec. 5. (1) Until June 1, 2025, the department shall prioritize the expedited processing of applications for permits related to the expansion or reconfiguration of an existing pulp and paper mill for the purpose of manufacturing paper bags or raw materials used to manufacture paper bags.

(2) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this

chapter.

(3) The enforcement of this chapter must be based primarily on complaints filed with the department and local governments. The department must establish a forum for the filing of complaints. Local governments and any person may file complaints with the department using the forum and local governments may review complaints filed with the department via the forum for purposes of the local government carrying out education and outreach to retail establishments. The forum established by the department may include a complaint form on the department's web site, a telephone hotline, or a public outreach strategy relying upon electronic social media to receive complaints that allege violations. The department, in collaboration with the local governments, must provide education and outreach activities to inform retail establishments, consumers, and other interested individuals about the requirements of this chapter.

(4) The department or local government shall work with retail establishments, retail associations, unions, and other organizations to create educational elements regarding the ban and the benefits of reusable carryout bags. Educational elements may include signage at store locations, informational literature, and employee training by October 1, 2020.

(5) Retail establishments are encouraged to educate their staff to promote reusable bags as the best option for carryout bags and to post signs encouraging customers to use reusable carryout bags.

(6) A violation of this chapter is subject to a civil penalty of up to two hundred fifty dollars. Each calendar day of operation or activity in violation of this chapter comprises a new violation. Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(7) If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by July 1, 2020, from the waste reduction, recycling, and litter control account for purposes of implementing the education and outreach activities required under this section, then this act is null and void.

NEW SECTION. Sec. 6. (1) Except as provided in subsection (2) of this section, a city, town, county, or municipal corporation may not implement a local carryout bag ordinance. Except as provided in subsection (2) of this section, any carryout bag ordinance that was enacted as of April 1, 2020, is preempted by this chapter.

(2)(a) A city, town, county, or municipal corporation carryout bag ordinance enacted as of April 1, 2020, that has established a pass-through charge of ten cents is not preempted with respect to the amount of the pass-through charge until January 1, 2026.

(b) A city, town, county, or municipal corporation ordinance not specified in (a) of this subsection and enacted as of April 1, 2020, is not preempted until January 1, 2021.

NEW SECTION. Sec. 7. (1) By December 1, 2024, the department of commerce, in consultation with the department, must submit a report to the appropriate committees of the legislature in order to allow an opportunity for the legislature to amend the mil thickness requirements for reusable carryout bags made of film plastic, the amount of the pass-through charges for bags, or to make other needed revisions to this chapter during the 2025 legislative session. The report required under this section must include:

(a) An assessment of the effectiveness of the pass-through charge for reducing the total volume of bags purchased and encouraging the use of reusable carryout bags;

(b) An assessment of the sufficiency of the amount of the pass-through charge allowed under chapter 70.--- RCW (the new chapter created in section 13 of this act) relative to the cost of the authorized bags to retail establishments and an assessment of the

pricing and availability of various types of carryout bags. For purposes of conducting this assessment, the department and the department of commerce may request, but not require, retail establishments and bag distributors to furnish information regarding the cost of various types of paper and plastic carryout bags provided to retail establishments; and

(c) Recommendations for revisions to chapter 70.--- RCW (the new chapter created in section 13 of this act), if needed.

(2) This section expires July 1, 2027.

NEW SECTION. Sec. 8. A new section is added to chapter 82.04 RCW to read as follows:

In computing the tax due under this chapter, there may be deducted any amounts derived from the pass-through charge collected by a taxpayer pursuant to chapter 70.--- RCW (the new chapter created in section 13 of this act).

NEW SECTION. Sec. 9. RCW 82.32.805 and 82.32.808 do not apply to this act.

Sec. 10. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, section 5 of this act, 70.365.070, 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(h) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(i) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(j) Decisions of the department of natural resources, the

department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(k) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(m) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(n) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 11. RCW 43.21B.110 and 2019 c 344 s 16, 2019 c 292 s 10, and 2019 c 290 s 12 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, section 5 of this act, 70.365.070, 70.375.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 70.365.070, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and

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decisions of the department regarding waste-derived soil amendments under RCW 70.95.205.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. Sections 1 through 7 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 14. Section 10 of this act expires June 30, 2021.

NEW SECTION. Sec. 15. Section 11 of this act takes effect June 30, 2021."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Das moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5323.

Senator Das spoke in favor of the motion.

Senators Rivers and Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Das that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5323.

The motion by Senator Das carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5323 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5323, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5323, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Walsh, Warnick, Wellman and Wilson, C.

Voting nay: Senators Becker, Brown, Fortunato, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5323, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5434 with the following amendment(s): 5434-S.E AMH CRJ H5240.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 9.41 RCW to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, licensed child care center premises, child care center-provided transportation, or areas of facilities while being used exclusively by a child care center:

(a) Any firearm;

(b) Any other dangerous weapon as described in RCW 9.41.250;

(c) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas; or

(d)(i) Any portable device manufactured to function as a weapon and which is commonly known as a stun gun, including a projectile stun gun that projects wired probes that are attached to the device that emit an electrical charge designed to administer to a person or an animal an electric shock, charge, or impulse; or

(ii) Any device, object, or instrument that is used or intended to be used as a weapon with the intent to injure a person by an electric shock, charge, or impulse.

(2) A person who violates subsection (1) of this section is guilty of a gross misdemeanor. If a person is convicted of a violation of

subsection (1)(a) of this section, the person shall have his or her concealed pistol license, if any, revoked for a period of three years. Anyone convicted under subsection (1)(a) of this section is prohibited from applying for a concealed pistol license for a period of three years from the date of conviction. The court shall order the person to immediately surrender any concealed pistol license, and within three business days notify the department of licensing in writing of the required revocation of any concealed pistol license held by the person. Upon receipt of the notification by the court, the department of licensing shall determine if the person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority which, upon receipt of the notification, shall immediately revoke the license.

(3) Subsection (1) of this section does not apply to:

(a) Family day care provider homes as defined in RCW 43.216.010;

(b) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a child at the child care center;

(c) Any person at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the child care center; or

(d) Any law enforcement officer of a federal, state, or local government agency.

(4) Child care centers must post "GUN-FREE ZONE" signs giving warning of the prohibition of the possession of firearms on center premises.

(5) A child care center that is located on public or private elementary or secondary school premises is subject to the requirements of RCW 9.41.280.

(6) For the purposes of this section, child care center has the same meaning as "child day care center" as defined in RCW 43.216.010.

NEW SECTION. Sec. 2. A new section is added to chapter 43.216 RCW to read as follows:

(1) Every child day care center and early childhood education and assistance program provider is subject to section 1 of this act.

(2)(a) A family day care provider must store any firearm, ammunition, or other dangerous weapon as described in RCW 9.41.250 in a secure area when children for whom the family day care provider is licensed to provide care are present on the premises.

(b) The secure area must be inaccessible to children and must consist of a locked gun safe or a locked room. If stored in a locked room, each firearm must be stored unloaded and with a trigger lock or other disabling feature.

(3) The department may deny, suspend, revoke, modify or not renew the license of a child care provider in violation of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 43.216 RCW to read as follows:

The department must adopt rules to implement sections 1 and 2 of this act."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Wilson, C. moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5434.

Senator Wilson, C. spoke in favor of the motion.

Senators Padden, Fortunato and Becker spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Wilson, C. that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5434.

The motion by Senator Wilson, C., carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5434 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5434, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5434, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko, Wellman and Wilson, C.

Voting nay: Senators Becker, Braun, Brown, Fortunato, Hawkins, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5434, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5601 with the following amendment(s): 5601-S2 AMH APP H5312.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that growth in managed health care systems has shifted substantial authority over health care decisions from providers and patients to health carriers and health care benefit managers. Health care benefit managers acting as intermediaries between carriers, health care providers, and patients exercise broad discretion to affect health care services recommended and delivered by providers and the health care choices of patients. Regularly, these health care benefit managers are making health care decisions on behalf of carriers. However, unlike carriers, health care benefit managers are not currently regulated.

(2) Therefore, the legislature finds that it is in the best interest of the public to create a separate chapter in this title for health care benefit managers.

(3) The legislature intends to protect and promote the health, safety, and welfare of Washington residents by establishing standards for regulatory oversight of health care benefit managers.

NEW SECTION. Sec. 2. The definitions in this section

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apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" or "affiliated employer" means a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another specified person.

(2) "Certification" has the same meaning as in RCW 48.43.005.

(3) "Employee benefits programs" means programs under both the public employees' benefits board established in RCW 41.05.055 and the school employees' benefits board established in RCW 41.05.740.

(4)(a) "Health care benefit manager" means a person or entity providing services to, or acting on behalf of, a health carrier or employee benefits programs, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies including, but not limited to:

- (i) Prior authorization or preauthorization of benefits or care;
- (ii) Certification of benefits or care;
- (iii) Medical necessity determinations;
- (iv) Utilization review;
- (v) Benefit determinations;
- (vi) Claims processing and repricing for services and procedures;
- (vii) Outcome management;
- (viii) Provider credentialing and recredentialing;
- (ix) Payment or authorization of payment to providers and facilities for services or procedures;
- (x) Dispute resolution, grievances, or appeals relating to determinations or utilization of benefits;
- (xi) Provider network management; or
- (xii) Disease management.

(b) "Health care benefit manager" includes, but is not limited to, health care benefit managers that specialize in specific types of health care benefit management such as pharmacy benefit managers, radiology benefit managers, laboratory benefit managers, and mental health benefit managers.

(c) "Health care benefit manager" does not include:

- (i) Health care service contractors as defined in RCW 48.44.010;
- (ii) Health maintenance organizations as defined in RCW 48.46.020;
- (iii) Issuers as defined in RCW 48.01.053;
- (iv) The public employees' benefits board established in RCW 41.05.055;
- (v) The school employees' benefits board established in RCW 41.05.740;
- (vi) Discount plans as defined in RCW 48.155.010;
- (vii) Direct patient-provider primary care practices as defined in RCW 48.150.010;
- (viii) An employer administering its employee benefit plan or the employee benefit plan of an affiliated employer under common management and control;
- (ix) A union administering a benefit plan on behalf of its members;
- (x) An insurance producer selling insurance or engaged in related activities within the scope of the producer's license;
- (xi) A creditor acting on behalf of its debtors with respect to insurance, covering a debt between the creditor and its debtors;
- (xii) A behavioral health administrative services organization or other county-managed entity that has been approved by the state health care authority to perform delegated functions on behalf of a carrier;
- (xiii) A hospital licensed under chapter 70.41 RCW or ambulatory surgical facility licensed under chapter 70.230 RCW;

(xiv) The Robert Bree collaborative under chapter 70.250 RCW;

(xv) The health technology clinical committee established under RCW 70.14.090; or

(xvi) The prescription drug purchasing consortium established under RCW 70.14.060.

(5) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005.

(6) "Health care service" has the same meaning as in RCW 48.43.005.

(7) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(8) "Laboratory benefit manager" means a person or entity providing service to, or acting on behalf of, a health carrier, employee benefits programs, or another entity under contract with a carrier, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies relating to the use of clinical laboratory services and includes any requirement for a health care provider to submit a notification of an order for such services.

(9) "Mental health benefit manager" means a person or entity providing service to, or acting on behalf of, a health carrier, employee benefits programs, or another entity under contract with a carrier, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies relating to the use of mental health services and includes any requirement for a health care provider to submit a notification of an order for such services.

(10) "Network" means the group of participating providers, pharmacies, and suppliers providing health care services, drugs, or supplies to beneficiaries of a particular carrier or plan.

(11) "Person" includes, as applicable, natural persons, licensed health care providers, carriers, corporations, companies, trusts, unincorporated associations, and partnerships.

(12)(a) "Pharmacy benefit manager" means a person that contracts with pharmacies on behalf of an insurer, a third-party payor, or the prescription drug purchasing consortium established under RCW 70.14.060 to:

- (i) Process claims for prescription drugs or medical supplies or provide retail network management for pharmacies or pharmacists;
- (ii) Pay pharmacies or pharmacists for prescription drugs or medical supplies;
- (iii) Negotiate rebates with manufacturers for drugs paid for or procured as described in this subsection;
- (iv) Manage pharmacy networks; or
- (v) Make credentialing determinations.

(b) "Pharmacy benefit manager" does not include a health care service contractor as defined in RCW 48.44.010.

(13)(a) "Radiology benefit manager" means any person or entity providing service to, or acting on behalf of, a health carrier, employee benefits programs, or another entity under contract with a carrier, that directly or indirectly impacts the determination or utilization of benefits for, or patient access to, the services of a licensed radiologist or to advanced diagnostic imaging services including, but not limited to:

- (i) Processing claims for services and procedures performed by a licensed radiologist or advanced diagnostic imaging service provider; or
- (ii) Providing payment or payment authorization to radiology clinics, radiologists, or advanced diagnostic imaging service providers for services or procedures.

(b) "Radiology benefit manager" does not include a health care service contractor as defined in RCW 48.44.010, a health maintenance organization as defined in RCW 48.46.020, or an

issuer as defined in RCW 48.01.053.

(14) "Utilization review" has the same meaning as in RCW 48.43.005.

NEW SECTION. Sec. 3. (1) To conduct business in this state, a health care benefit manager must register with the commissioner and annually renew the registration.

(2) To apply for registration under this section, a health care benefit manager must:

(a) Submit an application on forms and in a manner prescribed by the commissioner and verified by the applicant by affidavit or declaration under chapter 5.50 RCW. Applications must contain at least the following information:

(i) The identity of the health care benefit manager and of persons with any ownership or controlling interest in the applicant including relevant business licenses and tax identification numbers, and the identity of any entity that the health care benefit manager has a controlling interest in;

(ii) The business name, address, phone number, and contact person for the health care benefit manager;

(iii) Any areas of specialty such as pharmacy benefit management, radiology benefit management, laboratory benefit management, mental health benefit management, or other specialty; and

(iv) Any other information as the commissioner may reasonably require.

(b) Pay an initial registration fee and annual renewal registration fee as established in rule by the commissioner. The fees for each registration must be set by the commissioner in an amount that ensures the registration, renewal, and oversight activities are self-supporting. If one health care benefit manager has a contract with more than one carrier, the health care benefit manager must complete only one application providing the details necessary for each contract.

(3) All receipts from fees collected by the commissioner under this section must be deposited into the insurance commissioner's regulatory account created in RCW 48.02.190.

(4) Before approving an application for or renewal of a registration, the commissioner must find that the health care benefit manager:

(a) Has not committed any act that would result in denial, suspension, or revocation of a registration;

(b) Has paid the required fees; and

(c) Has the capacity to comply with, and has designated a person responsible for, compliance with state and federal laws.

(5) Any material change in the information provided to obtain or renew a registration must be filed with the commissioner within thirty days of the change.

(6) Every registered health care benefit manager must retain a record of all transactions completed for a period of not less than seven years from the date of their creation. All such records as to any particular transaction must be kept available and open to inspection by the commissioner during the seven years after the date of completion of such transaction.

NEW SECTION. Sec. 4. (1) A health care benefit manager may not provide health care benefit management services to a health carrier or employee benefits programs without a written agreement describing the rights and responsibilities of the parties conforming to the provisions of this chapter and any rules adopted by the commissioner to implement or enforce this chapter including rules governing contract content.

(2) A health care benefit manager must file with the commissioner in the form and manner prescribed by the commissioner, every benefit management contract and contract amendment between the health care benefit manager and a provider, pharmacy, pharmacy services administration organization, or other health care benefit manager, entered into

directly or indirectly in support of a contract with a carrier or employee benefits programs, within thirty days following the effective date of the contract or contract amendment.

(3) Contracts filed under this section are confidential and not subject to public inspection under RCW 48.02.120(2), or public disclosure under chapter 42.56 RCW, if filed in accordance with the procedures for submitting confidential filings through the system for electronic rate and form filings and the general filing instructions as set forth by the commissioner. In the event the referenced filing fails to comply with the filing instructions setting forth the process to withhold the contract from public inspection, and the health care benefit manager indicates that the contract is to be withheld from public inspection, the commissioner must reject the filing and notify the health care benefit manager through the system for electronic rate and form filings to amend its filing to comply with the confidentiality filing instructions.

NEW SECTION. Sec. 5. (1) Upon notifying a carrier or health care benefit manager of an inquiry or complaint filed with the commissioner pertaining to the conduct of a health care benefit manager identified in the inquiry or complaint, the commissioner must provide notice of the inquiry or complaint concurrently to the health care benefit manager and any carrier to which the inquiry or complaint pertains.

(2) Upon receipt of an inquiry from the commissioner, a health care benefit manager must provide to the commissioner within fifteen business days, in the form and manner required by the commissioner, a complete response to that inquiry including, but not limited to, providing a statement or testimony, producing its accounts, records, and files, responding to complaints, or responding to surveys and general requests. Failure to make a complete or timely response constitutes a violation of this chapter.

(3) Subject to chapter 48.04 RCW, if the commissioner finds that a health care benefit manager or any person responsible for the conduct of the health care benefit manager's affairs has:

(a) Violated any insurance law, or violated any rule, subpoena, or order of the commissioner or of another state's insurance commissioner;

(b) Failed to renew the health care benefit manager's registration;

(c) Failed to pay the registration or renewal fees;

(d) Provided incorrect, misleading, incomplete, or materially untrue information to the commissioner, to a carrier, or to a beneficiary;

(e) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, or financial irresponsibility in this state or elsewhere; or

(f) Had a health care benefit manager registration, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

the commissioner may take any combination of the following actions against a health care benefit manager or any person responsible for the conduct of the health care benefit manager's affairs, other than an employee benefits program:

(i) Place on probation, suspend, revoke, or refuse to issue or renew the health care benefit manager's registration;

(ii) Issue a cease and desist order against the health care benefit manager and contracting carrier;

(iii) Fine the health care benefit manager up to five thousand dollars per violation, and the contracting carrier is subject to a fine for acts conducted under the contract;

(iv) Issue an order requiring corrective action against the health care benefit manager, the contracting carrier acting with the health care benefit manager, or both the health care benefit manager and the contracting carrier acting with the health care benefit manager; and

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(v) Temporarily suspend the health care benefit manager's registration by an order served by mail or by personal service upon the health care benefit manager not less than three days prior to the suspension effective date. The order must contain a notice of revocation and include a finding that the public safety or welfare requires emergency action. A temporary suspension under this subsection (3)(f)(v) continues until proceedings for revocation are concluded.

(4) A stay of action is not available for actions the commissioner takes by cease and desist order, by order on hearing, or by temporary suspension.

(5)(a) Health carriers and employee benefits programs are responsible for the compliance of any person or organization acting directly or indirectly on behalf of or at the direction of the carrier or program, or acting pursuant to carrier or program standards or requirements concerning the coverage of, payment for, or provision of health care benefits, services, drugs, and supplies.

(b) A carrier or program contracting with a health care benefit manager is responsible for the health care benefit manager's violations of this chapter, including a health care benefit manager's failure to produce records requested or required by the commissioner.

(c) No carrier or program may offer as a defense to a violation of any provision of this chapter that the violation arose from the act or omission of a health care benefit manager, or other person acting on behalf of or at the direction of the carrier or program, rather than from the direct act or omission of the carrier or program.

NEW SECTION. Sec. 6. A new section is added to chapter 48.43 RCW to read as follows:

(1) A carrier must file with the commissioner in the form and manner prescribed by the commissioner every contract and contract amendment between the carrier and any health care benefit manager registered under section 3 of this act, within thirty days following the effective date of the contract or contract amendment.

(2) For health plans issued or renewed on or after January 1, 2022, carriers must notify health plan enrollees in writing of each health care benefit manager contracted with the carrier to provide any benefit management services in the administration of the health plan.

(3) Contracts filed under this section are confidential and not subject to public inspection under RCW 48.02.120(2), or public disclosure under chapter 42.56 RCW, if filed in accordance with the procedures for submitting confidential filings through the system for electronic rate and form filings and the general filing instructions as set forth by the commissioner. In the event the referenced filing fails to comply with the filing instructions setting forth the process to withhold the contract from public inspection, and the carrier indicates that the contract is to be withheld from public inspection, the commissioner must reject the filing and notify the carrier through the system for electronic rate and form filings to amend its filing to comply with the confidentiality filing instructions.

(4) For purposes of this section, "health care benefit manager" has the same meaning as in section 2 of this act.

Sec. 7. RCW 48.02.120 and 2011 c 312 s 1 are each amended to read as follows:

(1) The commissioner shall preserve in permanent form records of his or her proceedings, hearings, investigations, and examinations, and shall file such records in his or her office.

(2) The records of the commissioner and insurance filings in his or her office shall be open to public inspection, except as otherwise provided by sections 4 and 6 of this act and this code.

(3) Except as provided in subsection (4) of this section, actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by an insurer, health care service contractor, or health maintenance organization or submitted to the commissioner upon his or her request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(4) For individual and small group health benefit plan rate filings submitted on or after July 1, 2011, subsection (3) of this section applies only to the numeric values of each small group rating factor used by a health carrier as authorized by RCW 48.21.045(3)(a), 48.44.023(3)(a), and 48.46.066(3)(a). Subsection (3) of this section may continue to apply for a period of one year from the date a new individual or small group product filing is submitted or until the next rate filing for the product, whichever occurs earlier, if the commissioner determines that the proposed rate filing is for a new product that is distinct and unique from any of the carrier's currently or previously offered health benefit plans. Carriers must make a written request for a product classification as a new product under this subsection and must receive subsequent written approval by the commissioner for this subsection to apply.

(5) Unless the commissioner has determined that a filing is for a new product pursuant to subsection (4) of this section, for all individual or small group health benefit rate filings submitted on or after July 1, 2011, the health carrier must submit part I rate increase summary and part II written explanation of the rate increase as set forth by the department of health and human services at the time of filing, and the commissioner must:

(a) Make each filing and the part I rate increase summary and part II written explanation of the rate increase available for public inspection on the tenth calendar day after the commissioner determines that the rate filing is complete and accepts the filing for review through the electronic rate and form filing system; and

(b) Prepare a standardized rate summary form, to explain his or her findings after the rate review process is completed. The commissioner's summary form must be included as part of the rate filing documentation and available to the public electronically.

Sec. 8. RCW 48.02.220 and 2016 c 210 s 5 are each amended to read as follows:

(1) The commissioner shall accept registration of ((pharmacy)) health care benefit managers as established in ((RCW 19.340.030)) section 3 of this act and receipts shall be deposited in the insurance commissioner's regulatory account.

(2) The commissioner shall have enforcement authority over chapter ((19.340)) 48.--- RCW (the new chapter created in section 17 of this act) consistent with requirements established in RCW 19.340.110 (as recodified by this act).

(3) The commissioner may adopt rules to implement chapter ((19.340)) 48.--- RCW (the new chapter created in section 17 of this act) and to establish registration and renewal fees that ensure the registration, renewal, and oversight activities are self-supporting.

Sec. 9. RCW 42.56.400 and 2019 c 389 s 102 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate

the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2) as it existed prior to repeal by section 2, chapter 7, Laws of 2017 3rd sp. sess., that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 as it existed on January 1, 2017, and RCW 48.02.210 as it existed prior to repeal by section 2, chapter 7, Laws of 2017 3rd sp. sess.;

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017;

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5);

(24) Documents, materials, or information obtained by the insurance commissioner under chapter 48.05A RCW;

(25) Documents, materials, or information obtained by the insurance commissioner under RCW 48.74.025, 48.74.028, 48.74.100(6), 48.74.110(2) (b) and (c), and 48.74.120 to the extent such documents, materials, or information independently qualify for exemption from disclosure as documents, materials, or information in possession of the commissioner pursuant to a financial conduct examination and exempt from disclosure under RCW 48.02.065;

(26) Nonpublic personal health information obtained by, disclosed to, or in the custody of the insurance commissioner, as provided in RCW 48.02.068;

(27) Data, information, and documents obtained by the insurance commissioner under RCW 48.02.230;

(28) Documents, materials, or other information, including the corporate annual disclosure obtained by the insurance commissioner under RCW 48.195.020;

(29) Findings and orders disapproving acquisition of a trust institution under RCW 30B.53.100(3); ((and))

(30) All claims data, including health care and financial related data received under RCW 41.05.890, received and held by the health care authority; and

(31) Contracts not subject to public disclosure under sections 4 and 6 of this act.

Sec. 10. RCW 19.340.020 and 2014 c 213 s 3 are each amended to read as follows:

((As used in)) The definitions in this section apply throughout this section and RCW 19.340.040 through ((19.340.090:)) 19.340.110 (as recodified by this act) unless the context clearly requires otherwise.

(1) "Audit" means an on-site or remote review of the records of a pharmacy by or on behalf of an entity.

(2) "Claim" means a request from a pharmacy or pharmacist to be reimbursed for the cost of filling or refilling a prescription for a drug or for providing a medical supply or service.

(3) "Clerical error" means a minor error:

(a) In the keeping, recording, or transcribing of records or documents or in the handling of electronic or hard copies of correspondence;

(b) That does not result in financial harm to an entity; and

(c) That does not involve dispensing an incorrect dose, amount, or type of medication, or dispensing a prescription drug to the wrong person.

((3)) (4) "Entity" includes:

(a) A pharmacy benefit manager;

(b) An insurer;

(c) A third-party payor;

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(d) A state agency; or

(e) A person that represents or is employed by one of the entities described in this subsection.

((4)) (5) "Fraud" means knowingly and willfully executing or attempting to execute a scheme, in connection with the delivery of or payment for health care benefits, items, or services, that uses false or misleading pretenses, representations, or promises to obtain any money or property owned by or under the custody or control of any person.

(6) "Pharmacist" has the same meaning as in RCW 18.64.011.

(7) "Pharmacy" has the same meaning as in RCW 18.64.011.

(8) "Third-party payor" means a person licensed under RCW 48.39.005.

Sec. 11. RCW 19.340.040 and 2014 c 213 s 4 are each amended to read as follows:

An entity that audits claims or an independent third party that contracts with an entity to audit claims:

(1) Must establish, in writing, a procedure for a pharmacy to appeal the entity's findings with respect to a claim and must provide a pharmacy with a notice regarding the procedure, in writing or electronically, prior to conducting an audit of the pharmacy's claims;

(2) May not conduct an audit of a claim more than twenty-four months after the date the claim was adjudicated by the entity;

(3) Must give at least fifteen days' advance written notice of an on-site audit to the pharmacy or corporate headquarters of the pharmacy;

(4) May not conduct an on-site audit during the first five days of any month without the pharmacy's consent;

(5) Must conduct the audit in consultation with a pharmacist who is licensed by this or another state if the audit involves clinical or professional judgment;

(6) May not conduct an on-site audit of more than two hundred fifty unique prescriptions of a pharmacy in any twelve-month period except in cases of alleged fraud;

(7) May not conduct more than one on-site audit of a pharmacy in any twelve-month period;

(8) Must audit each pharmacy under the same standards and parameters that the entity uses to audit other similarly situated pharmacies;

(9) Must pay any outstanding claims of a pharmacy no more than forty-five days after the earlier of the date all appeals are concluded or the date a final report is issued under RCW 19.340.080(3) (as recodified by this act);

(10) May not include dispensing fees or interest in the amount of any overpayment assessed on a claim unless the overpaid claim was for a prescription that was not filled correctly;

(11) May not recoup costs associated with:

(a) Clerical errors; or

(b) Other errors that do not result in financial harm to the entity or a consumer; and

(12) May not charge a pharmacy for a denied or disputed claim until the audit and the appeals procedure established under subsection (1) of this section are final.

Sec. 12. RCW 19.340.070 and 2014 c 213 s 7 are each amended to read as follows:

For purposes of RCW 19.340.020 and 19.340.040 through 19.340.090 (as recodified by this act), an entity, or an independent third party that contracts with an entity to conduct audits, must allow as evidence of validation of a claim:

(1) An electronic or physical copy of a valid prescription if the prescribed drug was, within fourteen days of the dispensing date:

(a) Picked up by the patient or the patient's designee;

(b) Delivered by the pharmacy to the patient; or

(c) Sent by the pharmacy to the patient using the United States

postal service or other common carrier;

(2) Point of sale electronic register data showing purchase of the prescribed drug, medical supply, or service by the patient or the patient's designee; or

(3) Electronic records, including electronic beneficiary signature logs, electronically scanned and stored patient records maintained at or accessible to the audited pharmacy's central operations, and any other reasonably clear and accurate electronic documentation that corresponds to a claim.

Sec. 13. RCW 19.340.080 and 2014 c 213 s 8 are each amended to read as follows:

(1)(a) After conducting an audit, an entity must provide the pharmacy that is the subject of the audit with a preliminary report of the audit. The preliminary report must be received by the pharmacy no later than forty-five days after the date on which the audit was completed and must be sent:

(i) By mail or common carrier with a return receipt requested; or

(ii) Electronically with electronic receipt confirmation.

(b) An entity shall provide a pharmacy receiving a preliminary report under this subsection no fewer than forty-five days after receiving the report to contest the report or any findings in the report in accordance with the appeals procedure established under RCW 19.340.040(1) (as recodified by this act) and ((to provide)) must allow the submission of additional documentation in support of the claim. The entity shall consider a reasonable request for an extension of time to submit documentation to contest the report or any findings in the report.

(2) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow the pharmacy to resubmit the claim using any commercially reasonable method, including facsimile, mail, or ((electronic mail)) email.

(3) An entity must provide a pharmacy that is the subject of an audit with a final report of the audit no later than sixty days after the later of the date the preliminary report was received or the date the pharmacy contested the report using the appeals procedure established under RCW 19.340.040(1) (as recodified by this act). The final report must include a final accounting of all moneys to be recovered by the entity.

(4) Recoupment of disputed funds from a pharmacy by an entity or repayment of funds to an entity by a pharmacy, unless otherwise agreed to by the entity and the pharmacy, shall occur after the audit and the appeals procedure established under RCW 19.340.040(1) (as recodified by this act) are final. If the identified discrepancy for an individual audit exceeds forty thousand dollars, any future payments to the pharmacy may be withheld by the entity until the audit and the appeals procedure established under RCW 19.340.040(1) (as recodified by this act) are final.

Sec. 14. RCW 19.340.090 and 2014 c 213 s 9 are each amended to read as follows:

RCW 19.340.020 and 19.340.040 through 19.340.090 (as recodified by this act) do not:

(1) Preclude an entity from instituting an action for fraud against a pharmacy;

(2) Apply to an audit of pharmacy records when fraud or other intentional and willful misrepresentation is indicated by physical review, review of claims data or statements, or other investigative methods; or

(3) Apply to a state agency that is conducting audits or a person that has contracted with a state agency to conduct audits of pharmacy records for prescription drugs paid for by the state medical assistance program.

Sec. 15. RCW 19.340.100 and 2016 c 210 s 4 are each amended to read as follows:

(1) ((As used in this section:)) The definitions in this subsection

apply throughout this section unless the context clearly requires otherwise.

(a) "List" means the list of drugs for which predetermined reimbursement costs have been established, such as a maximum allowable cost or maximum allowable cost list or any other benchmark prices utilized by the pharmacy benefit manager and must include the basis of the methodology and sources utilized to determine multisource generic drug reimbursement amounts.

(b) "Multiple source drug" means a therapeutically equivalent drug that is available from at least two manufacturers.

(c) "Multisource generic drug" means any covered outpatient prescription drug for which there is at least one other drug product that is rated as therapeutically equivalent under the food and drug administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations;" is pharmaceutically equivalent or bioequivalent, as determined by the food and drug administration; and is sold or marketed in the state during the period.

(d) "Network pharmacy" means a retail drug outlet licensed as a pharmacy under RCW 18.64.043 that contracts with a pharmacy benefit manager.

(e) "Therapeutically equivalent" has the same meaning as in RCW 69.41.110.

(2) A pharmacy benefit manager:

(a) May not place a drug on a list unless there are at least two therapeutically equivalent multiple source drugs, or at least one generic drug available from only one manufacturer, generally available for purchase by network pharmacies from national or regional wholesalers;

(b) Shall ensure that all drugs on a list are readily available for purchase by pharmacies in this state from national or regional wholesalers that serve pharmacies in Washington;

(c) Shall ensure that all drugs on a list are not obsolete;

(d) Shall make available to each network pharmacy at the beginning of the term of a contract, and upon renewal of a contract, the sources utilized to determine the predetermined reimbursement costs for multisource generic drugs of the pharmacy benefit manager;

(e) Shall make a list available to a network pharmacy upon request in a format that is readily accessible to and usable by the network pharmacy;

(f) Shall update each list maintained by the pharmacy benefit manager every seven business days and make the updated lists, including all changes in the price of drugs, available to network pharmacies in a readily accessible and usable format;

(g) Shall ensure that dispensing fees are not included in the calculation of the predetermined reimbursement costs for multisource generic drugs;

(h) May not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading;

(i) May not charge a pharmacy a fee related to the adjudication of a claim, credentialing, participation, certification, accreditation, or enrollment in a network including, but not limited to, a fee for the receipt and processing of a pharmacy claim, for the development or management of claims processing services in a pharmacy benefit manager network, or for participating in a pharmacy benefit manager network;

(j) May not require accreditation standards inconsistent with or more stringent than accreditation standards established by a national accreditation organization;

(k) May not reimburse a pharmacy in the state an amount less than the amount the pharmacy benefit manager reimburses an affiliate for providing the same pharmacy services; and

(l) May not directly or indirectly retroactively deny or reduce a claim or aggregate of claims after the claim or aggregate of claims

has been adjudicated, unless:

(i) The original claim was submitted fraudulently; or

(ii) The denial or reduction is the result of a pharmacy audit conducted in accordance with RCW 19.340.040 (as recodified by this act).

(3) A pharmacy benefit manager must establish a process by which a network pharmacy may appeal its reimbursement for a drug subject to predetermined reimbursement costs for multisource generic drugs. A network pharmacy may appeal a predetermined reimbursement cost for a multisource generic drug if the reimbursement for the drug is less than the net amount that the network pharmacy paid to the supplier of the drug. An appeal requested under this section must be completed within thirty calendar days of the pharmacy submitting the appeal. If after thirty days the network pharmacy has not received the decision on the appeal from the pharmacy benefit manager, then the appeal is considered denied.

The pharmacy benefit manager shall uphold the appeal of a pharmacy with fewer than fifteen retail outlets, within the state of Washington, under its corporate umbrella if the pharmacy or pharmacist can demonstrate that it is unable to purchase a therapeutically equivalent interchangeable product from a supplier doing business in Washington at the pharmacy benefit manager's list price.

(4) A pharmacy benefit manager must provide as part of the appeals process established under subsection (3) of this section:

(a) A telephone number at which a network pharmacy may contact the pharmacy benefit manager and speak with an individual who is responsible for processing appeals; and

(b) If the appeal is denied, the reason for the denial and the national drug code of a drug that has been purchased by other network pharmacies located in Washington at a price that is equal to or less than the predetermined reimbursement cost for the multisource generic drug. A pharmacy with fifteen or more retail outlets, within the state of Washington, under its corporate umbrella may submit information to the commissioner about an appeal under subsection (3) of this section for purposes of information collection and analysis.

(5)(a) If an appeal is upheld under this section, the pharmacy benefit manager shall make a reasonable adjustment on a date no later than one day after the date of determination.

(b) If the request for an adjustment has come from a critical access pharmacy, as defined by the state health care authority by rule for purposes related to the prescription drug purchasing consortium established under RCW 70.14.060, the adjustment approved under (a) of this subsection shall apply only to critical access pharmacies.

(6) Beginning July 1, 2017, if a network pharmacy appeal to the pharmacy benefit manager is denied, or if the network pharmacy is unsatisfied with the outcome of the appeal, the pharmacy or pharmacist may dispute the decision and request review by the commissioner within thirty calendar days of receiving the decision.

(a) All relevant information from the parties may be presented to the commissioner, and the commissioner may enter an order directing the pharmacy benefit manager to make an adjustment to the disputed claim, deny the pharmacy appeal, or take other actions deemed fair and equitable. An appeal requested under this section must be completed within thirty calendar days of the request.

(b) Upon resolution of the dispute, the commissioner shall provide a copy of the decision to both parties within seven calendar days.

(c) The commissioner may authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct appeals under this subsection (6).

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(d) A pharmacy benefit manager may not retaliate against a pharmacy for pursuing an appeal under this subsection (6).

(e) This subsection (6) applies only to a pharmacy with fewer than fifteen retail outlets, within the state of Washington, under its corporate umbrella.

(7) This section does not apply to the state medical assistance program.

((8) A pharmacy benefit manager shall comply with any requests for information from the commissioner for purposes of the study of the pharmacy chain of supply conducted under section 7, chapter 210, Laws of 2016.))

Sec. 16. RCW 19.340.110 and 2016 c 210 s 2 are each amended to read as follows:

(1) The commissioner shall have enforcement authority over this chapter and shall have authority to render a binding decision in any dispute between a pharmacy benefit manager, or third-party administrator of prescription drug benefits, and a pharmacy arising out of an appeal under RCW 19.340.100(6) (as recodified by this act) regarding drug pricing and reimbursement.

(2) Any person, corporation, third-party administrator of prescription drug benefits, pharmacy benefit manager, or business entity which violates any provision of this chapter shall be subject to a civil penalty in the amount of one thousand dollars for each act in violation of this chapter or, if the violation was knowing and willful, a civil penalty of five thousand dollars for each violation of this chapter.

NEW SECTION. Sec. 17. Sections 1 through 5 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 18. RCW 19.340.020, 19.340.040, 19.340.050, 19.340.060, 19.340.070, 19.340.080, 19.340.090, 19.340.100, and 19.340.110 are each recodified as sections under a subchapter in chapter 48.--- RCW (the new chapter created in section 17 of this act).

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1)RCW 19.340.010 (Definitions) and 2016 c 210 s 3 & 2014 c 213 s 1;

(2)RCW 19.340.030 (Pharmacy benefit managers—Registration—Renewal) and 2016 c 210 s 1 & 2014 c 213 s 2; and

(3)RCW 19.365.010 (Registration required—Requirements) and 2015 c 166 s 1.

NEW SECTION. Sec. 20. The insurance commissioner may adopt any rules necessary to implement this act.

NEW SECTION. Sec. 21. (1) Subject to the availability of amounts appropriated for this specific purpose, the pharmacy contract work group is established. The work group membership must consist of the following members appointed by the governor:

(a) A representative from the prescription drug purchasing consortium described in RCW 70.14.060;

(b) A representative from the pharmacy quality assurance commission;

(c) A representative from an association representing pharmacies;

(d) A representative from an association representing hospital pharmacies;

(e) A representative from a health carrier offering at least one health plan in a commercial market in the state;

(f) A representative from a health maintenance organization offering at least one health plan in the state;

(g) A representative from an association representing health carriers;

(h) A representative from the health care authority on behalf of the public employees' benefits board or the school employees' benefits board;

(i) A representative from the health care authority on behalf of the state medicaid program;

(j) A representative from a pharmacy benefit manager; and

(k) A representative from the office of the insurance commissioner.

(2) The work group must also include:

(a) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house; and

(b) One member from each of the two largest caucuses of the senate, appointed by the president of the senate.

(3) The work group shall:

(a) Review pharmacy fee structures in the delivery of pharmacy benefits; and

(b) Review the use of performance-based contracts in the delivery of pharmacy benefits and develop recommendations on designs and use of performance-based contracts.

(4) Staff support for the work group shall be provided by the office of the insurance commissioner.

(5) The work group shall submit a progress report to the governor and the legislature by January 1, 2021, and a final report by September 1, 2021, detailing the current use of performance-based contracts and pharmacy fee structures in the delivery of pharmacy benefits and any recommendations for designs or use of performance-based contracts in the delivery of pharmacy benefits. The final report must include any statutory changes necessary to implement the recommendations.

NEW SECTION. Sec. 22. 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. 23. Sections 1 through 19 of this act take effect January 1, 2022.

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5601.

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

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5601.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5601 by voice vote.

MOTION

On motion of Senator Rivers, Senator Wagoner was excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5601, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5601, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Ericksen and Wagoner

SECOND SUBSTITUTE SENATE BILL NO. 5601, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2020

MR. PRESIDENT:

The House passed SENATE BILL NO. 5613 with the following amendment(s): 5613 AMH LG H5051.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.87.130 and 1969 ex.s. c 185 s 7 are each amended to read as follows:

No county shall vacate a county road or part thereof which abuts on a body of salt or freshwater unless:

(1) The purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational, or other public purposes~~(, or unless);~~

(2) The property is zoned for industrial uses; or

(3) In a county west of the crest of the Cascade mountains and bordered by the Columbia river with a population over four hundred fifty thousand, the county determines that:

(a) The road has been used as an access point to trespass onto private property;

(b) Such trespass has caused loss of human life, and that public use of the county road creates an ongoing risk to public safety; and

(c) Public access to the same body of water abutting the county road is available at not less than three public access sites within two miles in any direction of the terminus of the road subject to vacation.

NEW SECTION. Sec. 2. Section 1 of this act expires December 31, 2023."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Senate Bill No. 5613.

Senator Rivers spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Senate Bill No. 5613.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5613 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5613, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5613, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SENATE BILL NO. 5613, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6087 with the following amendment(s): 6087-S2.E AMH HCW H5103.1

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) Except as required in subsection (2) of this section, a health plan issued or renewed on or after January 1, 2021, that provides coverage for prescription insulin drugs for the treatment of diabetes must cap the total amount that an enrollee is required to pay for a covered insulin drug at an amount not to exceed one hundred dollars per thirty-day supply of the drug. Prescription insulin drugs must be covered without being subject to a deductible, and any cost sharing paid by an enrollee must be applied toward the enrollee's deductible obligation.

(2) If the federal internal revenue service removes insulin from the list of preventive care services which can be covered by a qualifying health plan for a health savings account before the deductible is satisfied, for a health plan that provides coverage for prescription insulin drugs for the treatment of diabetes and is offered as a qualifying health plan for a health savings account, the carrier must establish the plan's cost sharing for the coverage of prescription insulin for diabetes at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from his or her health savings account under internal revenue service laws and regulations. The office of the insurance commissioner must provide written notice of the change in internal revenue service guidance 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 office.

(3) This section expires January 1, 2023.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) Except as required in subsection (2) of this section, a health plan offered to public employees and their covered dependents under this chapter that is issued or renewed by the board on or after January 1, 2021, that provides coverage for prescription insulin drugs for the treatment of diabetes must cap the total

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amount that an enrollee is required to pay for a covered insulin drug at an amount not to exceed one hundred dollars per thirty-day supply of the drug. Prescription insulin drugs must be covered without being subject to a deductible, and any cost sharing paid by an enrollee must be applied toward the enrollee's deductible obligation.

(2) If the federal internal revenue service removes insulin from the list of preventive care services which can be covered by a qualifying health plan for a health savings account before the deductible is satisfied, for a health plan that provides coverage for prescription insulin drugs for the treatment of diabetes and is offered as a qualifying health plan for a health savings account, the health plan offered under this chapter must establish the plan's cost sharing for the coverage of prescription insulin for diabetes at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions from his or her health savings account under internal revenue service laws and regulations. The office of the insurance commissioner must provide written notice of the change in internal revenue service guidance 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 office.

(3) The authority must monitor the wholesale acquisition cost of all insulin products sold in the state.

(4) This section expires January 1, 2023.

Sec. 3. RCW 48.20.391 and 1997 c 276 s 2 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

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

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All disability insurance contracts providing health care services, delivered or issued for delivery in this state and issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For disability insurance contracts that include pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all disability insurance contracts providing health care services, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the insurer from restricting patients to seeing only health care providers who have signed participating provider agreements with the insurer or

an insuring entity under contract with the insurer.

(3) ~~((Coverage))~~ Except as provided in section 1 of this act, coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The insurer need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plan that provides benefits identical to the schedule of services covered by the basic health plan, as required by RCW 48.20.028.

Sec. 4. RCW 48.21.143 and 2004 c 244 s 10 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

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

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All group disability insurance contracts and blanket disability insurance contracts providing health care services, issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For group disability insurance contracts and blanket disability insurance contracts that include coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all group disability insurance contracts and blanket disability insurance contracts providing health care services, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the insurer from restricting patients to seeing only health care providers who have signed participating provider agreements with the insurer or an insuring entity under contract with the insurer.

(3) ~~((Coverage))~~ Except as provided in section 1 of this act, coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The insurer need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plan that provides benefits identical to the schedule of services covered by the basic health plan.

Sec. 5. RCW 48.44.315 and 2004 c 244 s 12 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

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

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All health benefit plans offered by health care service contractors, issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For health benefit plans that include coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all health benefit plans, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the health care services contractor from restricting patients to seeing only health care providers who have signed participating provider agreements with the health care services contractor or an insuring entity under contract with the health care services contractor.

(3) ~~((Coverage))~~ Except as provided in section 1 of this act, coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The health care service contractor need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-

insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plans that provide benefits identical to the schedule of services covered by the basic health plan.

Sec. 6. RCW 48.46.272 and 2004 c 244 s 14 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

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

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All health benefit plans offered by health maintenance organizations, issued or renewed after January 1, 1998, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For health benefit plans that include coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all health benefit plans, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents the health maintenance organization from restricting patients to seeing only health care providers who have signed participating provider agreements with the health maintenance organization or an insuring entity under contract with the health maintenance organization.

(3) ~~((Coverage))~~ Except as provided in section 1 of this act, coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

(6) The health maintenance organization need not include the coverage required in this section in a group contract offered to an employer or other group that offers to its eligible enrollees a self-insured health plan not subject to mandated benefits status under this title that does not offer coverage similar to that mandated under this section.

(7) This section does not apply to the health benefit plans that provide benefits identical to the schedule of services covered by the basic health plan."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6087.

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

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6087.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6087 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6087, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6087, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6087, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6088 with the following amendment(s): 6088-S AMH ENGR H5317.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 70.14 RCW to read as follows:

The definitions in this section apply throughout sections 2 through 5 of this act unless the context clearly requires otherwise.

- (1) "Authority" means the health care authority.
- (2) "Biological product" has the meaning provided in 42 U.S.C. Sec. 262(i)(1).
- (3) "Biosimilar" has the meaning provided in 42 U.S.C. Sec. 262(i)(2).
- (4) "Board" means the prescription drug affordability board.
- (5) "Generic drug" has the meaning provided in RCW

69.48.020.

NEW SECTION. Sec. 2. A new section is added to chapter 70.14 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the prescription drug affordability board is established, to include five members who have expertise in health care economics or clinical medicine appointed by the governor.

(2) Board members shall serve for a term of five years.

(3) No board member may be an employee of, a board member of, or consultant to, a prescription drug manufacturer, pharmacy benefit manager, health carrier, prescription drug wholesale distributor, or related trade association.

(4) The board may establish advisory groups consisting of relevant stakeholders when the board deems it necessary. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group.

(5) The authority shall provide administrative support to the board and any advisory group and may adopt rules governing their operation.

(6) Board members shall be compensated for participation in the work of the board in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the board.

(7) A simple majority of the board's membership constitutes a quorum for the purpose of conducting business.

(8) The board must coordinate with and complement the work of the authority, other boards, and work groups related to prescription drug costs and emerging therapies.

(9) All meetings of the board must be open and public, except that the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 70.14 RCW to read as follows:

(1) By May 1, 2021, the board must provide the health care cost transparency board established in chapter 70.--- RCW (the new chapter created in Second Substitute House Bill No. 2457, Laws of 2020), with recommendations for the means and methodologies to establish a cost growth benchmark related to prescription drugs.

(2) By June 30, 2021, and yearly thereafter, using data collected under chapter 43.71C RCW, or other data deemed relevant by the board, the board must identify:

(a) Brand name prescription drugs and biological products that:

(i) Are introduced to the market with a wholesale acquisition cost of thirty thousand dollars or more per year or course of treatment lasting less than one year; or

(ii) Have a price increase of two thousand dollars or more in any twelve-month period;

(b) Biosimilar products that have a launch wholesale acquisition cost that is not at least fifteen percent lower than the reference brand biological product at the time the biosimilar is launched;

(c) Generic drugs with a wholesale acquisition cost of one hundred dollars or more for a thirty-day supply or less that has increased in price by two hundred percent or more in the preceding twelve months;

(d) Any prescription drug or biological products exceeding the relevant benchmark established by the health care cost transparency board established in chapter 70.--- RCW (the new chapter created in Second Substitute House Bill No. 2457, Laws of 2020); and

(e) Any other prescription drug or biological product the board believes the manufacturer's pricing of may exceed the proposed value of the prescription drug or biological products.

NEW SECTION. Sec. 4. A new section is added to chapter

70.14 RCW to read as follows:

(1) The board may choose to conduct a cost review of any prescription drug or biological product identified under section 3 of this act.

(2) For prescription drugs or biological products chosen for a cost review, the board must determine whether the manufacturer's pricing of the prescription drug or biological product substantially exceeds the proposed value of the prescription drug or biological product. The board may examine publicly available information as well as collect information from the drug manufacturer and other relevant sources. When conducting a review, the board may consider:

(a) The relevant factors contributing to the price paid by the state for the prescription drug or biological product, including the wholesale acquisition cost and discounts, rebates, or other price concessions provided by the manufacturer to the state;

(b) The average patient copay or other cost sharing for the drug;

(c) The dollar value of patient assistance programs offered by the manufacturer for the drug;

(d) The price of therapeutic alternatives;

(e) The amount of public funding received or provided for the development of the prescription drug or biological product;

(f) The manufacturer's research and development costs, as indicated on the manufacturer's federal tax filing or information filed with the federal securities and exchange commission for the most recent tax year in proportion to the manufacturer's sales in the state;

(g) The portion of direct-to-consumer marketing costs eligible for favorable federal tax treatment in the most recent tax year that are specific to the prescription drug under review and that are multiplied by the ratio of total manufacturer in-state sales to total manufacturer sales in the United States for the drug under review;

(h) The manufacturer's gross and net revenues for the most recent tax year; and

(i) Any other relevant factors as determined by the board.

(3) All information collected by the board under this section is not subject to public disclosure under chapter 42.56 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 70.14 RCW to read as follows:

(1) If, after the cost review of a prescription drug or biological product the board determines that the manufacturer's pricing of the drug or biological product does not substantially exceed the proposed value of the prescription drug or biological product, the board shall notify the manufacturer, in writing, of its determination and shall evaluate other ways to mitigate the eligible prescription drug or biological product's cost in order to improve patient access to the eligible prescription drug or biological product. The board may engage with the manufacturer and other relevant stakeholders, including, but not limited to, patients, patient advocacy organizations, providers, provider organizations and payers, to explore options for mitigating the cost of the prescription drug or biological product. Upon the conclusion of a stakeholder engagement process under this subsection, the board shall issue recommendations on ways to reduce the cost of the prescription drug or biological product for the purpose of improving patient access to the prescription drug or biological product. Recommendations must be publicly posted on the authority's web site. The recommendations may include, but are not be limited to:

(a) An alternative payment plan or methodology;

(b) A bulk purchasing program;

(c) Copayment, coinsurance, deductible, or other cost-sharing restrictions; and

(d) A reinsurance program to subsidize the cost of the eligible drug.

(2) If, after the cost review of a prescription drug or biological

product, the board determines that the manufacturer's pricing of the prescription drug or biological product substantially exceeds the proposed value of the prescription drug or biological product, the board shall request that the manufacturer provide further information related to the pricing of the prescription drug or biological product and the manufacturer's reasons for the pricing not later than sixty days after receiving the request.

(3) No later than ninety days after receiving the additional information from the manufacturer, the board shall confidentially issue a determination on whether the manufacturer's pricing of a prescription drug or biological product still substantially exceeds the board's proposed value of the prescription drug or biological product and request the manufacturer to enter into negotiations to reduce the cost of the prescription drug or biological product. If the manufacturer refuses to enter into negotiations, the authority shall post the board's proposed value on the authority's web site.

(4) Any proprietary information submitted by a prescription drug or biological product manufacturer pursuant to this section or section 4 of this act must be kept confidential.

Sec. 6. RCW 43.71C.100 and 2019 c 334 s 10 are each amended to read as follows:

(1) The authority shall compile and analyze the data submitted by health carriers, pharmacy benefit managers, manufacturers, and pharmacy services administrative organizations pursuant to this chapter and prepare an annual report for the public and the legislature synthesizing the data to demonstrate the overall impact that drug costs, rebates, and other discounts have on health care premiums.

(2) The data in the report must be aggregated and must not reveal information specific to individual health carriers, pharmacy benefit managers, pharmacy services administrative organizations, ~~((individual prescription drugs, individual classes of prescription drugs,))~~ individual manufacturers, except in the case of single source drugs, or discount amounts paid in connection with individual prescription drugs.

(3) Data received under this section must be used only for the enumerated purposes of this chapter and other statutorily authorized purposes.

(4) Beginning January 1, 2021, and by each January 1st thereafter, the authority must publish the report on its web site.

~~((4))~~ (5) Except for the report, and as provided in subsection ~~((5))~~ (6) of this section, the authority shall keep confidential all data submitted pursuant to RCW 43.71C.020 through 43.71C.080.

~~((5))~~ (6) For purposes of public policy, upon request of ~~((a legislator))~~ the office of the governor, the office of the attorney general, the prescription drug affordability board established in section 2 of this act, or a committee or subcommittee of the legislature with jurisdiction over matters relating to drug transparency, the authority must provide all data provided pursuant to RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority. Any information provided pursuant to this subsection must be kept confidential within the ~~((legislature))~~ office of the governor, the office of the attorney general, the prescription drug affordability board established in section 2 of this act, or a committee or subcommittee of the legislature with jurisdiction over matters relating to drug transparency and may not be publicly released.

~~((6))~~ (7) The data collected pursuant to this chapter is not subject to public disclosure under chapter 42.56 RCW.

(8) Recipients of data received under subsection (6) of this section must:

(a) Follow all rules adopted by the authority regarding appropriate data use and protection; and

(b) Sign a nondisclosure agreement that includes acknowledgments that the recipient is solely responsible for any

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liability arising from misuse of the data, that the recipient does not have any conflicts under the ethics in public service act that would prevent the recipient from accessing or using the data, and that any violations of the nondisclosure agreement may result in losing the right to access or use the data.

NEW SECTION. Sec. 7. A new section is added to chapter 42.56 RCW to read as follows:

Any data collected by the prescription drug affordability board under section 4 of this act are exempt from disclosure under this chapter."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Cleveland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6088.

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

The President declared the question before the Senate to be the motion by Senator Cleveland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6088.

The motion by Senator Cleveland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6088 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6088, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6088, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Stanford, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Becker, Brown, Fortunato, Holy, Honeyford, King, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 6088, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTED SENATE BILL NO. 6287 with the following amendment(s): 6287-S.E AMH CRJ H5183.1

Strike everything after the enacting clause and insert the following:

"**Sec. 101.** RCW 11.130.185 and 2019 c 437 s 201 are each amended to read as follows:

(1) A person becomes a guardian for a minor only on appointment by the court.

(2) The court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the minor's best interest and:

(a) Each parent of the minor, after being fully informed of the nature and consequences of guardianship, consents;

(b) All parental rights have been terminated; or

(c) There is clear and convincing evidence that no parent of the minor is willing or able to exercise ~~((the powers the court is granting the guardian))~~ parenting functions as defined in RCW 26.09.004.

Sec. 102. RCW 11.130.190 and 2019 c 437 s 202 are each amended to read as follows:

(1) A person interested in the welfare of a minor, including the minor, may petition for appointment of a guardian for the minor.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the minor, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(a) The minor's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the minor will reside if the appointment is made;

(b) The name and current street address of the minor's parents;

(c) The name and address, if known, of each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(d) The name and address of any attorney for the minor and any attorney for each parent of the minor;

(e) ~~((The reason guardianship is sought and would be in the best interest of the minor))~~ The legal basis for the guardianship. Factual reasons why the guardianship is sought and would be in the best interest of the minor shall be set out in a separate supplemental declaration;

(f) The name and address of any proposed guardian and the reason the proposed guardian should be selected;

(g) If the minor has property other than personal effects, a general statement of the minor's property with an estimate of its value;

(h) Whether the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(i) Whether any parent of the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings; and

(j) Whether any other proceeding concerning the care or custody of the minor is pending in any court in this state or another jurisdiction.

(3) The court may, upon a showing of good cause, order that the information concerning the reasons for the guardianship contained in the supplemental declaration to the petition and all subsequently filed pleadings and evidence by any party not be served on the minor if the minor is unrepresented. A minor entitled to service under this subsection may request access to the court pleadings and evidence filed in the court record.

(4) Courts may develop forms for the purpose of filing petitions under subsection (1) of this section.

Sec. 103. RCW 11.130.195 and 2019 c 437 s 203 are each amended to read as follows:

(1) If a petition is filed under RCW 11.130.190, the court shall schedule a hearing and the petitioner shall:

(a) Serve notice of the date, time, and place of the hearing, together with a copy of the petition and supplemental declaration, personally on each of the following that is not the petitioner:

(i) The minor, if the minor (~~(will be)~~) is twelve years of age or older (~~(at the time of the hearing)~~). The court may, upon a showing of good cause, order that information concerning the reasons for the guardianship contained in the petition, the supplemental declaration, and all subsequently filed pleadings and evidence by any party, not be served on the minor if the minor is unrepresented. A minor entitled to service under this subsection may request access to the court pleadings and evidence filed in the court record;

(ii) Each parent of the minor or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;

(iii) ~~((Any adult with whom the minor resides;~~

~~(iv) Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition; and~~

~~((v)) Any guardian or person with nonparental custody of the minor issued under chapter 26.10 RCW; and~~

~~(vi) Any other person the court determines should receive personal service of notice; and~~

~~(b)(i) Give notice by mail or other action reasonably calculated to give notice under RCW 11.130.065 of the date, time, and place of the hearing, together with a copy of the petition, to:~~

~~((#)) (A) Any adult with primary care and custody of the minor who is not a parent, guardian, or person with nonparental custody issued under chapter 26.10 RCW;~~

~~(B) Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition, if known;~~

~~(C) Any person nominated as guardian by the minor, if the minor is twelve years of age or older;~~

~~((##)) (D) Any nominee of a parent;~~

~~((###)) (E) Each grandparent and adult sibling of the minor, if known;~~

~~((iv)) (F) Any (~~guardian or~~) conservator acting for the minor in any jurisdiction; and~~

~~((v)) (G) Any other person the court determines.~~

~~(ii) The court may waive notice to persons listed under (b)(i) of this subsection for good cause. Good cause includes an allegation that giving notice may risk harm to the minor.~~

(2) Notice required by subsection (1) of this section must include a statement of the right to request appointment of an attorney for the minor or object to appointment of a guardian and a description of the nature, purpose, and consequences of appointment of a guardian. Notice for the minor must specifically state all rights retained by the minor including the right to request counsel, the right to attend, and the right to participate and communicate with the court. Notice for the minor must also state whether the court has entered any prior order limiting information served upon the minor, and that the minor may ask the court to reconsider the court's order at any time. Notice for the minor must include information on how the minor can respond to the petition.

(3) The court may not grant a petition for guardianship of a minor if notice substantially complying with subsection (1)(a) of this section is not served on:

(a) The minor, if the minor is twelve years of age or older; and

(b) Each parent of the minor, unless the court finds by clear and convincing evidence that the parent cannot with due diligence be located and served or the parent waived, in a record, the right to notice.

(4) If a petitioner is unable to serve notice under subsection (1)(a) of this section on a parent of a minor or alleges that the parent waived, in a record, the right to notice under this section, and in all cases involving a minor twelve years of age and older when the minor is unrepresented, the court shall appoint a court visitor who shall:

(a) Interview the petitioner and the minor;

(b) Meet with the minor and explain the rights retained by the minor as outlined in the notice requirements under this section. The court visitor shall ascertain the minor's views or positions regarding the guardianship and shall file a report with the court regarding the minor's views or positions. If the minor wishes the court to reconsider any prior order limiting information served upon the minor, the court visitor shall inform the court of the minor's request;

~~(c) If the petitioner alleges the parent cannot be located, ascertain whether the parent cannot be located with due diligence;~~

~~((e)) (d) Investigate any other matter relating to the petition the court directs; and~~

~~((#d)) (e) Ascertain whether the parent consents to the guardian for the minor.~~

Sec. 104. RCW 11.130.205 and 2019 c 437 s 205 are each amended to read as follows:

(1) The court shall allow a minor who is the subject of a hearing under RCW 11.130.195 to attend the hearing and allow the minor to participate in the hearing unless the court determines ~~((, by clear and convincing evidence presented at the hearing or a separate hearing,))~~ that:

(a) The minor lacks the ability or maturity to participate meaningfully in the hearing; or

(b) Attendance would be harmful to the minor.

(2) Unless excused by the court for good cause, the person proposed to be appointed as guardian for a minor shall attend a hearing under RCW 11.130.195.

(3) Each parent of a minor who is the subject of a hearing under RCW 11.130.195 has the right to attend the hearing.

(4) A person may request permission to participate in a hearing under RCW 11.130.195. The court may grant the request, with or without hearing, on determining that it is in the best interest of the minor who is the subject of the hearing. The court may impose appropriate conditions on the person's participation.

Sec. 105. RCW 11.130.210 and 2019 c 437 s 206 are each amended to read as follows:

(1) Before granting any order ~~((regarding the custody of a child))~~ under this chapter, the court must consult the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child.

(2) Before entering a final order, the court must:

(a) Direct the department of children, youth, and families to release information as provided under RCW 13.50.100; and

(b) Require the petitioner to provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW for the petitioner and adult members of the petitioner's household.

Sec. 106. RCW 11.130.215 and 2019 c 437 s 207 are each amended to read as follows:

(1) After a hearing under RCW 11.130.195, the court may appoint a guardian for a minor, if appointment is proper under RCW 11.130.185, dismiss the proceeding, or take other appropriate action consistent with this chapter or law of this state other than this chapter.

(2) In appointing a guardian under subsection (1) of this section, the following rules apply:

(a) The court shall appoint a person nominated as guardian by

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a parent of the minor in a will or other record unless the court finds the appointment is contrary to the best interest of the minor.

(b) If multiple parents have nominated different persons to serve as guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(c) If a guardian is not appointed under (a) or (b) of this subsection, the court shall appoint the person nominated by the minor if the minor is twelve years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

(3) In the interest of maintaining or encouraging involvement by a minor's parent in the minor's life, developing self-reliance of the minor, or for other good cause, the court, at the time of appointment of a guardian for the minor or later, on its own or on motion of the minor or other interested person, may create a limited guardianship by limiting the powers otherwise granted by this article to the guardian. Following the same procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which shall preserve the parent-child relationship through an order for parent-child visitation and other contact, unless the court finds the relationship should be limited or restricted under RCW 26.09.191; and which may include ~~((contact or visitation with the minor,))~~ decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(5) An order granting a guardianship for a minor must state that each parent of the minor is entitled to notice that:

(a) The guardian has delegated custody of the minor subject to guardianship;

(b) The court has modified or limited the powers of the guardian; or

(c) The court has removed the guardian.

(6) An order granting a guardianship for a minor must identify any person in addition to a parent of the minor which is entitled to notice of the events listed in subsection (5) of this section.

(7) An order granting guardianship for a minor must direct the clerk of the court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday.

Sec. 107. RCW 11.130.220 and 2019 c 437 s 208 are each amended to read as follows:

(1) A standby guardian appointed under this section may act as guardian, with all duties and powers of a guardian under RCW 11.130.230 and 11.130.235, when no parent of the minor is willing or able to exercise the duties and powers granted to the guardian.

(2) A parent of a minor, in a signed record, may nominate a person to be appointed by the court as standby guardian for the minor. The parent, in a signed record, may state desired limitations on the powers to be granted the standby guardian. The parent, in a signed record, may revoke or amend the nomination at any time before the court appoints a standby guardian.

(3) The court may appoint a standby guardian for a minor on:

(a) Petition by a parent of the minor or a person nominated under subsection (2) of this section; and

(b) Finding that, within two years after the appointment, no parent of the minor likely will be able or willing to ~~((care for or make decisions with respect to the minor not later than two years after the appointment))~~ perform parenting functions as defined in

RCW 26.09.004.

(4) A petition under subsection (3)(a) of this section must include the same information required under RCW 11.130.190 for the appointment of a guardian for a minor.

(5) On filing a petition under subsection (3)(a) of this section, the petitioner shall:

(a) Serve a copy of the petition personally on:

(i) The minor, if the minor is twelve years of age or older, and the minor's attorney, if any;

(ii) Each parent of the minor;

(iii) The person nominated as standby guardian; and

(iv) Any other person the court determines; and

(b) Include with the copy of the petition served under (a) of this subsection a statement of the right to request appointment of an attorney for the minor or to object to appointment of the standby guardian, and a description of the nature, purpose, and consequences of appointment of a standby guardian.

(6) The court may, upon a showing of good cause, order that the information concerning the reasons for the standby guardianship contained in the petition and all subsequently filed pleadings and evidence by any party not be served on the minor if the minor is unrepresented. A minor entitled to service under this subsection may request access to the court pleadings and evidence filed in the court record.

(7) A person entitled to notice under subsection (5) of this section, not later than sixty days after service of the petition and statement, may object to appointment of the standby guardian by filing an objection with the court and giving notice of the objection to each other person entitled to notice under subsection (5) of this section.

~~((7))~~ (8) If an objection is filed under subsection ~~((6))~~ (7) of this section, the court shall hold a hearing to determine whether a standby guardian should be appointed and, if so, the person that should be appointed. If no objection is filed, the court may make the appointment.

~~((8))~~ (9) The court may not grant a petition for a standby guardian of the minor if notice substantially complying with subsection (5) of this section is not served on:

(a) The minor, if the minor is twelve years of age or older; and

(b) Each parent of the minor, unless the court finds by clear and convincing evidence that the parent, in a record, waived the right to notice or cannot be located and served with due diligence.

~~((9))~~ (10) If a petitioner is unable to serve notice under subsection (5) of this section on a parent of the minor or alleges that a parent of the minor waived the right to notice under this section, the court shall appoint a court visitor who shall:

(a) Interview the petitioner and the minor;

(b) If the petitioner alleges the parent cannot be located and served, ascertain whether the parent cannot be located with due diligence; and

(c) Investigate any other matter relating to the petition the court directs.

~~((10))~~ (11) If the court finds under subsection (3) of this section that a standby guardian should be appointed, the following rules apply:

(a) The court shall appoint the person nominated under subsection (2) of this section unless the court finds the appointment is contrary to the best interest of the minor.

(b) If the parents have nominated different persons to serve as standby guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

~~((11))~~ (12) An order appointing a standby guardian under this section must state that each parent of the minor is entitled to

notice, and identify any other person entitled to notice, if:

(a) The standby guardian assumes the duties and powers of the guardian;

(b) The guardian delegates custody of the minor;

(c) The court modifies or limits the powers of the guardian; or

(d) The court removes the guardian.

~~((42))~~ (13) Before assuming the duties and powers of a guardian, a standby guardian must file with the court an acceptance of appointment as guardian and give notice of the acceptance to:

(a) Each parent of the minor, unless the parent, in a record, waived the right to notice or cannot be located and served with due diligence;

(b) The minor, if the minor is twelve years of age or older; and

(c) Any person, other than the parent, having care or custody of the minor.

~~((43))~~ (14) A person that receives notice under subsection ~~((42))~~ (13) of this section or any other person interested in the welfare of the minor may file with the court an objection to the standby guardian's assumption of duties and powers of a guardian. The court shall hold a hearing if the objection supports a reasonable belief that the conditions for assumption of duties and powers have not been satisfied.

Sec. 108. RCW 11.130.225 and 2019 c 437 s 209 are each amended to read as follows:

(1) On its own, or on petition by a person interested in a minor's welfare, including the minor, the court may appoint an emergency guardian for the minor if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare; and

(b) No other person appears to have authority and willingness to act in the circumstances.

(2) The duration of authority of an emergency guardian for a minor may not exceed sixty days and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) of this section continue.

(3) Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on a petition for appointment of an emergency guardian for a minor must be given to:

(a) The minor, if the minor is twelve years of age or older;

(b) Any attorney appointed under RCW 11.130.200;

(c) Each parent of the minor;

(d) Any person, other than a parent, having care or custody of the minor; and

(e) Any other person the court determines.

(4) The court may appoint an emergency guardian for a minor without notice under subsection (3) of this section and a hearing only if the court finds from an affidavit or testimony that the minor's health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without notice to an unrepresented minor or the attorney for a represented minor, notice of the appointment must be given not later than forty-eight hours after the appointment to the individuals listed in subsection (3) of this section. Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(5) Appointment of an emergency guardian under this section, with or without notice, is not a determination that a basis exists for appointment of a guardian under RCW 11.130.185.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian shall

make any report the court requires.

(7) Notwithstanding subsection (2) of this section, the court may extend an emergency guardianship pending the outcome of a full hearing under RCW 11.130.190 or 11.130.220.

(8) If a petition for guardianship under RCW 11.130.215 is pending, or is subsequently filed after a petition under this section, the cases shall be linked or consolidated.

Sec. 109. RCW 11.130.230 and 2019 c 437 s 210 are each amended to read as follows:

(1) A guardian for a minor is a fiduciary. Except as otherwise limited by the court, a guardian for a minor has the duties and responsibilities of a parent regarding the minor's support, care, education, health, safety, and welfare. A guardian shall act in the minor's best interest and exercise reasonable care, diligence, and prudence.

(2) A guardian for a minor shall:

(a) Be personally acquainted with the minor and maintain sufficient contact with the minor to know the minor's abilities, limitations, needs, opportunities, and physical and mental health;

(b) Take reasonable care of the minor's personal effects and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect other property of the minor;

(c) Expend funds of the minor which have been received by the guardian for the minor's current needs for support, care, education, health, safety, and welfare;

(d) Conserve any funds of the minor not expended under (c) of this subsection for the minor's future needs, but if a conservator is appointed for the minor, pay the funds at least quarterly to the conservator to be conserved for the minor's future needs;

(e) Report the condition of the minor and account for funds and other property of the minor in the guardian's possession or subject to the guardian's control, ~~((as required by court rule or))~~ if ordered by the court on its own motion or on application of a person interested in the minor's welfare;

(f) Inform the court of any change in the minor's dwelling or address; and

(g) In determining what is in the minor's best interest, take into account the minor's preferences to the extent actually known or reasonably ascertainable by the guardian.

Sec. 110. RCW 11.130.240 and 2019 c 437 s 212 are each amended to read as follows:

(1) Guardianship under this chapter for a minor terminates:

(a) On the minor's death, adoption, emancipation, or attainment of majority; or

(b) When the court finds that the ~~((standard))~~ basis in RCW 11.130.185 for appointment of a guardian ~~((is not satisfied))~~ no longer exists, unless the court finds that:

(i) Termination of the guardianship would be harmful to the minor; and

(ii) The minor's interest in the continuation of the guardianship outweighs the interest of any parent of the minor in restoration of the parent's right to make decisions for the minor.

(2) A minor subject to guardianship or a person interested in the welfare of the minor, including a parent, may petition the court to terminate the guardianship, modify the guardianship, remove the guardian and appoint a successor guardian, or remove a standby guardian and appoint a different standby guardian.

(3) A petitioner under subsection (2) of this section shall give notice of the hearing on the petition to the minor, if the minor is twelve years of age or older and is not the petitioner, the guardian, each parent of the minor, and any other person the court determines.

(4) The court shall follow the priorities in RCW 11.130.215(2) when selecting a successor guardian for a minor.

(5) Not later than thirty days after appointment of a successor

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guardian for a minor, the court shall give notice of the appointment to the minor subject to guardianship, if the minor is twelve years of age or older, each parent of the minor, and any other person the court determines.

(6) When terminating a guardianship for a minor under this section, the court may issue an order providing for transitional arrangements that will assist the minor with a transition of custody and is in the best interest of the minor.

(7) A guardian for a minor that is removed shall cooperate with a successor guardian to facilitate transition of the guardian's responsibilities and protect the best interest of the minor.

Sec. 111. RCW 11.130.245 and 2019 c 437 s 213 are each amended to read as follows:

(1) This chapter does not affect the validity of any court order issued under chapter 26.10 RCW prior to January 1, 2021. Orders issued under chapter 26.10 RCW prior to January 1, 2021, remain in effect and do not need to be reissued in a new order under this chapter.

(2) All orders issued under chapter 26.10 RCW prior to the effective date of chapter 437, Laws of 2019 remain operative after the effective date of chapter 437, Laws of 2019. After the effective date of chapter 437, Laws of 2019, if an order issued under chapter 26.10 RCW is modified, the modification is subject to the requirements of this chapter.

NEW SECTION. Sec. 112. A new section is added to chapter 11.130 RCW to read as follows:

(1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining another party from:

(a) Molesting or disturbing the peace of the other party or of any child;

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(3) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis by filing an appropriate separate civil cause of action. The petitioner shall inform the court of the existence of the action under this title. The court shall set all future protection hearings on the guardianship calendar to be heard concurrent with the action under this title and the clerk shall relate the cases in the case management system. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800, and shall order the respondent to surrender, and prohibit the respondent from possessing, all firearms, dangerous weapons, and any concealed pistol license as required in RCW 9.41.800. Such orders may only be made in the civil protection case related to the action under this title.

(5) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of

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the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

(7) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

(8) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

Sec. 113. RCW 11.130.250 and 2019 c 437 s 214 are each amended to read as follows:

(1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in RCW 13.38.040. If the child is an Indian child, chapter 13.38 RCW shall apply.

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice (~~and~~), evidentiary requirements, and placement preferences under the federal Indian child welfare act and chapter 13.38 RCW have been satisfied.

Sec. 114. RCW 13.34.030 and 2019 c 172 s 2 and 2019 c 46 s 5016 are each reenacted and amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster

care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(10) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(11) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(12) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for

children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(13) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(14) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or family reunification service as described in RCW 13.34.025(2).

~~((14))~~ (15) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

~~((15))~~ (16) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

~~((16))~~ (17) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

~~((17))~~ (18) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

~~((18))~~ (19) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

~~((19))~~ (20) "Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

~~((20))~~ (21) "Qualified residential treatment program" means a program licensed as a group care facility under chapter 74.15 RCW that also qualifies for funding under the federal family first prevention services act under 42 U.S.C. Sec. 672(k) and meets the requirements provided in RCW 13.34.420.

~~((21))~~ (22) "Relative" includes persons related to a child in

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the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

~~((22))~~ (23) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

~~((23))~~ (24) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

~~((24))~~ (25) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

~~((25))~~ (26) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

~~((26))~~ (27) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

Sec. 115. RCW 13.34.062 and 2018 c 58 s 71 are each amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing,

child protective services shall make reasonable efforts to also provide written notification.

(b) The written notice of custody and rights required by this section shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at (~~(insert appropriate phone number here)~~) . . . (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (~~(explain local procedure)~~) . . . (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (~~(insert name and telephone number)~~) . . . (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present.

6. If your child is placed in the custody of the department of children, youth, and families or other supervising agency, immediately following the shelter care hearing, the court will enter an order granting the department or other supervising agency the right to inspect and copy all health, medical, mental health, and education records of the child, directing health care providers to release such information without your further consent, and granting the department or supervising agency or its designee the authority and responsibility, where applicable, to:

- (1) Notify the child's school that the child is in out-of-home placement;
- (2) Enroll the child in school;
- (3) Request the school transfer records;
- (4) Request and authorize evaluation of special needs;
- (5) Attend parent or teacher conferences;
- (6) Excuse absences;
- (7) Grant permission for extracurricular activities;
- (8) Authorize medications which need to be administered

during school hours and sign for medical needs that arise during school hours; and

(9) Complete or update school emergency records.

7. If the court decides to place your child in the custody of the department of children, youth, and families or other supervising agency, the department or agency will create a permanency plan for your child, including a primary placement goal and secondary placement goal. The department or agency also will recommend that the court order services for your child and for you, if needed. The department or agency is required to make reasonable efforts to provide you with services to address your parenting problems, and to provide you with visitation with your child according to court orders. Failure to promptly engage in services or to maintain contact with your child may lead to the filing of a petition to terminate your parental rights.

8. Primary and secondary permanency plans are intended to run at the same time so that your child will have a permanent home as quickly as possible. Absent good cause, and when appropriate, the department or other supervising agency must follow the wishes of a natural parent regarding placement of a child. You should tell your lawyer and the court where you wish your child placed immediately, including whether you want your child placed with you, with a relative, or with another suitable person. You also should tell your lawyer and the court what services you feel are necessary and your wishes regarding visitation with your child. Even if you want another parent or person to be the primary placement choice for your child, you should tell your lawyer, the department or other supervising agency, and the court if you want to be a secondary placement option, and you should comply with court orders for services and participate in visitation with your child. Early and consistent involvement in your child's case plan is important for the well-being of your child.

9. A dependency petition begins a judicial process, which, if the court finds your child dependent, could result in substantial restrictions including, the entry or modification of a parenting plan or residential schedule, previously existing nonparental custody order or decree, guardianship order, or permanent loss of your parental rights."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

(3) If child protective services is not required to give notice under this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

(4) Reasonable efforts to advise and to give notice, as required in this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

Sec. 116. RCW 13.34.110 and 2017 3rd sp.s. c 6 s 305 are each amended to read as follows:

(1) The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor. The rules of evidence shall apply at the fact-finding hearing and the parent, guardian, or legal custodian of the child shall have all of the rights provided in RCW 13.34.090(1). The petitioner shall have the burden of establishing by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030.

(2) The court in a fact-finding hearing may consider the history of past involvement of child protective services or law enforcement agencies with the family for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of the child on the part of the child's parent, guardian, or legal custodian, or for the purpose of establishing that reasonable efforts have been made by the department to prevent or eliminate the need for removal of the child from the child's home. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes.

(3)(a) The parent, guardian, or legal custodian of the child may waive his or her right to a fact-finding hearing by stipulating or agreeing to the entry of an order of dependency establishing that the child is dependent within the meaning of RCW 13.34.030. The parent, guardian, or legal custodian may also stipulate or agree to an order of disposition pursuant to RCW 13.34.130 at the same time. Any stipulated or agreed order of dependency or disposition must be signed by the parent, guardian, or legal custodian and his or her attorney, unless the parent, guardian, or legal custodian has waived his or her right to an attorney in open court, and by the petitioner and the attorney, guardian ad litem, or court-appointed special advocate for the child, if any. If the department is not the petitioner and is required by the order to supervise the placement of the child or provide services to any party, the department must also agree to and sign the order.

(b) Entry of any stipulated or agreed order of dependency or disposition is subject to approval by the court. The court shall receive and review a social study before entering a stipulated or agreed order and shall consider whether the order is consistent with the allegations of the dependency petition and the problems that necessitated the child's placement in out-of-home care. No social file or social study may be considered by the court in connection with the fact-finding hearing or prior to factual determination, except as otherwise admissible under the rules of evidence.

(c) Prior to the entry of any stipulated or agreed order of dependency, the parent, guardian, or legal custodian of the child and his or her attorney must appear before the court and the court within available resources must inquire and establish on the record that:

(i) The parent, guardian, or legal custodian understands the terms of the order or orders he or she has signed, including his or her responsibility to participate in remedial services as provided in any disposition order;

(ii) The parent, guardian, or legal custodian understands that entry of the order starts a process that could result in the filing of a petition to terminate his or her relationship with the child within the time frames required by state and federal law if he or she fails to comply with the terms of the dependency or disposition orders or fails to substantially remedy the problems that necessitated the child's placement in out-of-home care;

(iii) The parent, guardian, or legal custodian understands that the entry of the stipulated or agreed order of dependency is an admission that the child is dependent within the meaning of RCW 13.34.030 and shall have the same legal effect as a finding by the

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court that the child is dependent by at least a preponderance of the evidence, and that the parent, guardian, or legal custodian shall not have the right in any subsequent proceeding for termination of parental rights (~~((or dependency guardianship))~~) pursuant to this chapter or (~~((nonparental custody))~~) guardianship pursuant to (~~(chapter 26.10))~~ chapters 13.36 or 11.130 RCW to challenge or dispute the fact that the child was found to be dependent; and

(iv) The parent, guardian, or legal custodian knowingly and willingly stipulated and agreed to and signed the order or orders, without duress, and without misrepresentation or fraud by any other party.

If a parent, guardian, or legal custodian fails to appear before the court after stipulating or agreeing to entry of an order of dependency, the court may enter the order upon a finding that the parent, guardian, or legal custodian had actual notice of the right to appear before the court and chose not to do so. The court may require other parties to the order, including the attorney for the parent, guardian, or legal custodian, to appear and advise the court of the parent's, guardian's, or legal custodian's notice of the right to appear and understanding of the factors specified in this subsection. A parent, guardian, or legal custodian may choose to waive his or her presence at the in-court hearing for entry of the stipulated or agreed order of dependency by submitting to the court through counsel a completed stipulated or agreed dependency fact-finding/disposition statement in a form determined by the Washington state supreme court pursuant to General Rule GR 9.

(4) Immediately after the entry of the findings of fact, the court shall hold a disposition hearing, unless there is good cause for continuing the matter for up to fourteen days. If good cause is shown, the case may be continued for longer than fourteen days. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by certified mail of the time and place of any continued hearing. Unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or efforts to reunite the parent and child would be hindered, the court shall direct the department to notify those adult persons who: (a) Are related by blood or marriage to the child in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, or aunt; (b) are known to the department as having been in contact with the family or child within the past twelve months; and (c) would be an appropriate placement for the child. Reasonable cause to dispense with notification to a parent under this section must be proved by clear, cogent, and convincing evidence.

The parties need not appear at the fact-finding or dispositional hearing if the parties, their attorneys, the guardian ad litem, and court-appointed special advocates, if any, are all in agreement.

Sec. 117. RCW 13.34.136 and 2018 c 284 s 13 are each amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the department assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The department shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's proposed permanency plan must be provided to the department, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in RCW 13.38.040; guardianship pursuant to chapter 13.36 RCW; guardianship of a minor pursuant to RCW 11.130.215; (~~((permanent legal custody;))~~) long-term relative or foster care, if the child is between ages sixteen and eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. Although a permanency plan of care may only identify long-term relative or foster care for children between ages sixteen and eighteen, children under sixteen may remain placed with relatives or in foster care. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(8), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(A) If the parent is incarcerated, the plan must address how the parent will participate in the case conference and permanency planning meetings and, where possible, must include treatment that reflects the resources available at the facility where the parent is confined. The plan must provide for visitation opportunities, unless visitation is not in the best interests of the child.

(B) If a parent has a developmental disability according to the definition provided in RCW 71A.10.020, and that individual is eligible for services provided by the department of social and health services developmental disabilities administration, the department shall make reasonable efforts to consult with the department of social and health services developmental disabilities administration to create an appropriate plan for services. For individuals who meet the definition of developmental disability provided in RCW 71A.10.020 and who are eligible for services through the developmental disabilities administration, the plan for services must be tailored to correct the parental deficiency taking into consideration the parent's disability and the department shall also determine an appropriate method to offer those services based on the parent's disability.

(ii)(A) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(B) Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the

visitation.

(C) Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. When a parent or sibling has been identified as a suspect in an active criminal investigation for a violent crime that, if the allegations are true, would impact the safety of the child, the department shall make a concerted effort to consult with the assigned law enforcement officer in the criminal case before recommending any changes in parent/child or child/sibling contact. In the event that the law enforcement officer has information pertaining to the criminal case that may have serious implications for child safety or well-being, the law enforcement officer shall provide this information to the department during the consultation. The department may only use the information provided by law enforcement during the consultation to inform family visitation plans and may not share or otherwise distribute the information to any person or entity. Any information provided to the department by law enforcement during the consultation is considered investigative information and is exempt from public inspection pursuant to RCW 42.56.240. The results of the consultation shall be communicated to the court.

(D) The court and the department should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii)(A) The department, court, or caregiver in the out-of-home placement may not limit visitation or contact between a child and sibling as a sanction for a child's behavior or as an incentive to the child to change his or her behavior.

(B) Any exceptions, limitation, or denial of contacts or visitation must be approved by the supervisor of the department caseworker and documented. The child, parent, department, guardian ad litem, or court-appointed special advocate may challenge the denial of visits in court.

(iv) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(v) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department.

(vi) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vii) The department shall provide all reasonable services that are available within the department, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(~~(8)~~) (9), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the

earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, and the court has not made a good cause exception, the court shall require the department to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(4)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(~~(6)~~) (7). Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department or other agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning(~~(a)~~ ~~"Guardianship"~~), "guardianship" means a (~~dependency guardianship or a legal~~) guardianship pursuant to chapter (~~11.88~~) 13.36 RCW or a guardianship of a minor pursuant to RCW 11.130.215, or equivalent laws of another state or a federally recognized Indian tribe.

(~~(b)~~ ~~"Permanent custody order"~~) means a custody order entered pursuant to chapter 26.10 RCW.

(~~(c)~~ ~~"Permanent legal custody"~~) means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.)

Sec. 118. RCW 13.34.145 and 2019 c 172 s 15 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a

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dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) When the youth is at least age seventeen years but not older than seventeen years and six months, the department shall provide the youth with written documentation which explains the availability of extended foster care services and detailed instructions regarding how the youth may access such services after he or she reaches age eighteen years.

(4) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. The court shall find, as of the date of the hearing, that the child's placement and plan of care is the best permanency plan for the child and provide compelling reasons why it continues to not be in the child's best interest to (i) return home; (ii) be placed for adoption; (iii) be placed with a legal guardian; or (iv) be placed with a fit and willing relative. If the child is present at the hearing, the court should ask the child about his or her desired permanency outcome.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in

some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(c) Regardless of whether the primary permanency planning goal has been achieved, for a child who remains placed in a qualified residential treatment program as defined in this chapter for at least sixty days, and remains placed there at subsequent permanency planning hearings, the court shall establish in writing:

(i) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(ii) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(iii) Whether the placement is consistent with the child's short and long-term goals as stated in the child's permanency plan;

(iv) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(v) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW (~~legal~~) guardian, a guardian pursuant to RCW 11.130.215, an adoptive parent, or in a foster family home.

(5) Following this inquiry, at the permanency planning hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

(a) For purposes of this subsection, "good cause exception" includes but is not limited to the following:

(i) The child is being cared for by a relative;

(ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

(iii) The department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests;

(iv) The parent is incarcerated, or the parent's prior incarceration is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months, the parent maintains a meaningful role in the child's life, and the department has not documented another reason why it would be otherwise appropriate to file a petition pursuant to this section;

(v) Where a parent has been accepted into a dependency treatment court program or long-term substance abuse or dual

diagnoses treatment program and is demonstrating compliance with treatment goals; or

(vi) Where a parent who has been court ordered to complete services necessary for the child's safe return home files a declaration under penalty of perjury stating the parent's financial inability to pay for the same court-ordered services, and also declares the department was unwilling or unable to pay for the same services necessary for the child's safe return home.

(b) The court's assessment of whether a parent who is incarcerated maintains a meaningful role in the child's life may include consideration of the following:

(i) The parent's expressions or acts of manifesting concern for the child, such as letters, telephone calls, visits, and other forms of communication with the child;

(ii) The parent's efforts to communicate and work with the department or other individuals for the purpose of complying with the service plan and repairing, maintaining, or building the parent-child relationship;

(iii) A positive response by the parent to the reasonable efforts of the department;

(iv) Information provided by individuals or agencies in a reasonable position to assist the court in making this assessment, including but not limited to the parent's attorney, correctional and mental health personnel, or other individuals providing services to the parent;

(v) Limitations in the parent's access to family support programs, therapeutic services, and visiting opportunities, restrictions to telephone and mail services, inability to participate in foster care planning meetings, and difficulty accessing lawyers and participating meaningfully in court proceedings; and

(vi) Whether the continued involvement of the parent in the child's life is in the child's best interest.

(c) The constraints of a parent's current or prior incarceration and associated delays or barriers to accessing court-mandated services may be considered in rebuttal to a claim of aggravated circumstances under RCW 13.34.132(4)(h) for a parent's failure to complete available treatment.

(6)(a) If the permanency plan identifies independent living as a goal, the court at the permanency planning hearing shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(b) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(c) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(7) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(a) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(6), and 13.34.096; and

(b) If the department is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(8) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the department to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(9) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(10) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(11) If the court orders the child returned home, casework supervision by the department shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(12) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(13) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (12) of this section are met.

(14) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(15) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the department of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(16) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 119. RCW 13.34.155 and 2019 c 46 s 5017 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to ~~((chapter 26.10 RCW))~~ a guardianship of a minor under RCW 11.130.215 in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a

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dependency review order or as otherwise necessary to implement a permanency plan of care for a child. Any modification or establishment of a guardianship of a minor must be made in conformity with the standards in chapter 11.130 RCW. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish or modify a ~~((permanent custody order))~~ guardianship of a minor, but the court may decide any contested issues implementing the guardianship. This agreed ~~((order))~~ guardianship of a minor may have the concurrence of the other parties to the dependency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a ~~((custody))~~ guardianship of a minor order under ~~((chapter 26.10))~~ RCW 11.130.215 is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a ~~((custody order))~~ guardianship of a minor. Once ~~((an))~~ a guardianship of a minor order is entered under ~~((chapter 26.10))~~ RCW 11.130.215, and the dependency petition dismissed, the department shall not continue to supervise the placement.

(2)(a) The court hearing the dependency petition may establish or modify a parenting plan under chapter 26.09, 26.26A, or 26.26B RCW as part of a disposition order or at a review hearing when doing so will implement a permanent plan of care for the child and result in dismissal of the dependency.

(b) The dependency court shall adhere to procedural requirements under chapter 26.09 RCW and must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(c) Unless the whereabouts of one of the parents is unknown to either the department or the court, the parents must agree, subject to court approval, to establish the parenting plan or modify an existing parenting plan.

(d) Whenever the court is asked to establish or modify a parenting plan, the child's residential schedule, the allocation of decision-making authority, and dispute resolution under this section, the dependency court may:

(i) Appoint a guardian ad litem to represent the interests of the child when the court believes the appointment is necessary to protect the best interests of the child; and

(ii) Appoint an attorney to represent the interests of the child with respect to provisions for the parenting plan.

(e) The dependency court must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(f) The dependency court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for the entry or modification of a parenting plan under this section. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to become part of the court record of the dependency case and the case under chapter 26.09, 26.26A, or 26.26B RCW.

(g) In the absence of agreement by a parent, guardian, or legal custodian of the child to allow the juvenile court to hear and determine issues related to the establishment or modification of a parenting plan under chapter 26.09, 26.26A, or 26.26B RCW, a party may move the court to transfer such issues to the family law department of the superior court for further resolution. The court may only grant the motion upon entry of a written finding that it is in the best interests of the child.

(h) In any parenting plan agreed to by the parents and entered or modified in juvenile court under this section, all issues pertaining to child support and the division of marital property shall be referred to or retained by the family law department of the superior court.

(3) ~~((Any court order determining issues under chapter 26.10~~

~~RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.~~

(4)) Any order entered in the dependency court establishing or modifying a ~~((permanent legal custody order))~~ guardianship of a minor under RCW 11.130.215, parenting plan, or residential schedule under chapter 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW shall also be filed in the chapter 11.130, 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW action by the moving or prevailing party. If the petitioning or moving party has been found indigent and appointed counsel at public expense in the dependency proceeding, no filing fees shall be imposed by the clerk. Once filed, any guardianship of a minor order, parenting plan, or residential schedule establishing or modifying permanent legal custody of a child shall survive dismissal of the dependency proceeding.

Sec. 120. RCW 13.34.210 and 2018 c 284 s 21 are each amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under chapter 13.36 RCW or ~~((chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW,))~~ a guardianship of a minor under RCW 11.130.215 has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered. The department shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130~~((6))~~ (7) and shall report to the court the status and extent of such relationships.

Sec. 121. RCW 13.50.100 and 2019 c 470 s 21 are each amended to read as follows:

(1) This section governs records not covered by RCW 13.50.050, 13.50.260, and 13.50.270.

(2) Records covered by this section shall be confidential and shall be released only pursuant to this section and RCW 13.50.010.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the statewide judicial information system. However, truancy records associated with a juvenile who has no other case history, and records of a juvenile's parents who have no other case history, shall be removed from the judicial information system when the juvenile is no longer subject to the compulsory attendance laws in chapter 28A.225 RCW. A county clerk is not liable for unauthorized release of this data by persons or agencies not in his or her employ or otherwise subject to his or her control, nor is the county clerk liable for inaccurate or incomplete information collected from litigants or other persons required to provide identifying data pursuant to this

section.

(4) Subject to (a) of this subsection, the department of children, youth, and families may release information retained in the course of conducting child protective services investigations to a family or juvenile court hearing a petition for custody of a minor under chapter ~~((26.10))~~ 11.130 RCW.

(a) Information that may be released shall be limited to information regarding investigations in which: (i) The juvenile was an alleged victim of abandonment or abuse or neglect; or (ii) the petitioner for custody of the juvenile, or any individual aged sixteen or older residing in the petitioner's household, is the subject of a founded or currently pending child protective services investigation made by the department of social and health services or the department of children, youth, and families subsequent to October 1, 1998.

(b) Additional information may only be released with the written consent of the subject of the investigation and the juvenile alleged to be the victim of abandonment or abuse and neglect, or the parent, custodian, guardian, or personal representative of the juvenile, or by court order obtained with notice to all interested parties.

(5) Any disclosure of records or information by the department of social and health services or the department of children, youth, and families, pursuant to this section shall not be deemed a waiver of any confidentiality or privilege attached to the records or information by operation of any state or federal statute or regulation, and any recipient of such records or information shall maintain it in such a manner as to comply with such state and federal statutes and regulations and to protect against unauthorized disclosure.

(6) A contracting agency or service provider of the department of social and health services or the department of children, youth, and families, that provides counseling, psychological, psychiatric, or medical services may release to the office of the family and children's ombuds information or records relating to services provided to a juvenile who is dependent under chapter 13.34 RCW without the consent of the parent or guardian of the juvenile, or of the juvenile if the juvenile is under the age of thirteen years, unless such release is otherwise specifically prohibited by law.

(7) A juvenile, his or her parents, the juvenile's attorney, and the juvenile's parent's attorney, shall, upon request, be given access to all records and information collected or retained by a juvenile justice or care agency which pertain to the juvenile except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to other order of the court: PROVIDED, That if the court determines that limited release of the information is appropriate, the court may specify terms and conditions for the release of the information; or

(b) If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric, or medical services to the juvenile, when the services have been sought voluntarily by the juvenile, and the juvenile has a legal right to receive those services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile unless otherwise authorized by law; or

(c) That the department of children, youth, and families or the department of social and health services may delete the name and identifying information regarding persons or organizations who have reported alleged child abuse or neglect.

(8) A juvenile or his or her parent denied access to any records

following an agency determination under subsection (7) of this section may file a motion in juvenile court requesting access to the records. The court shall grant the motion unless it finds access may not be permitted according to the standards found in subsection (7)(a) and (b) of this section.

(9) The person making a motion under subsection (8) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(10) Subject to the rules of discovery in civil cases, any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship and any party's counsel and the guardian ad litem of any party, shall have access to the records of any natural or adoptive child of the parent, subject to the limitations in subsection (7) of this section. A party denied access to records may request judicial review of the denial. If the party prevails, he or she shall be awarded attorneys' fees, costs, and an amount not less than five dollars and not more than one hundred dollars for each day the records were wrongfully denied.

(11) No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020(1) may be disclosed to a child-placing agency, private adoption agency, or any other licensed provider.

NEW SECTION. Sec. 122. A new section is added to chapter 11.130 RCW to read as follows:

Any order for the relocation of a minor under a guardianship must comply with the notice requirements of RCW 26.09.430 through 26.09.490.

PART II

GUARDIANSHIPS OF ADULTS

Sec. 201. RCW 11.130.275 and 2019 c 437 s 303 are each amended to read as follows:

(1) All petitions filed under RCW 11.130.270 for appointment of a guardian for an adult shall be heard within sixty-days unless an extension of time is requested by a party or the court visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2)(a) A copy of a petition under RCW 11.130.270 and notice of a hearing on the petition must be served personally on the respondent and the court visitor appointed under RCW 11.130.280 not more than five court days after the petition under RCW 11.130.270 has been filed. ~~((The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition.))~~

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the respondent that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on whether a basis exists under RCW 11.130.265 for the appointment of a guardian and the issue of the respondent's rights that will be retained or restricted if a guardian is appointed. Such notice must be in substantially the same form as set forth in section 321 of this act and must be double-spaced and in a type size not smaller than sixteen point font. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under RCW 11.130.270, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under RCW 11.130.270(2) (a) through (c) and any other ~~((person interested in the respondent's welfare the court determines))~~ notice party. Failure to give notice under this subsection does not preclude the court from appointing a guardian.

(4) After the appointment of a guardian, notice of a hearing on

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a petition for an order under this article, together with a copy of the petition, must be given to:

- (a) The adult subject to guardianship;
- (b) The guardian; and
- (c) Any other notice party or person the court determines pursuant to RCW 11.130.310(5) or a subsequent court order.

Sec. 202. RCW 11.130.285 and 2019 c 437 s 305 are each amended to read as follows:

(1)(a) The respondent shall have the right to be represented by a willing attorney of their choosing at any stage in guardianship proceedings. Any attorney purporting to represent a respondent or person subject to guardianship shall petition the court to be appointed to represent the respondent or person subject to guardianship.

(b) Unless the respondent in a proceeding for appointment of a guardian for an adult is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay, except as provided otherwise in (c) of this subsection.

(c)(i) The court must appoint an attorney to represent the respondent at public expense when either:

- (A) The respondent is unable to afford an attorney;
- (B) The expense of an attorney would result in substantial hardship to the respondent; or
- (C) The respondent does not have practical access to funds with which to pay an attorney. If the respondent can afford an attorney but lacks practical access to funds, the court must provide an attorney and may impose a reimbursement requirement as part of a final order.

(ii) When, in the opinion of the court, the rights and interests of the respondent cannot otherwise be adequately protected and represented, the court on its own motion must appoint an attorney at any time to represent the respondent.

(iii) An attorney must be provided under this subsection (1)(c) as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks is presumed by a reviewing court to be inadequate time for consultation and preparation.

(2) An attorney representing the respondent in a proceeding for appointment of a guardian for an adult shall:

- (a) Make reasonable efforts to ascertain the respondent's wishes;
- (b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and
- (c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration, and scope, consistent with the respondent's interests.

Sec. 203. RCW 11.130.290 and 2019 c 437 s 306 are each amended to read as follows:

(1) ~~(At or before a hearing on a petition for a guardianship for an adult, the court shall order a professional evaluation of the respondent:~~

- ~~(a) If the respondent requests the evaluation; or~~
- ~~(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.)~~ On receipt of a petition under RCW 11.130.270 and at the time the court appoints a court visitor under RCW 11.130.280, the court shall order a professional evaluation of the respondent.

(2) ~~(If the court orders an evaluation under subsection (1) of this section, the)~~ The respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, ~~(or)~~ advanced

registered nurse practitioner licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A RCW selected by the court visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. ~~(The individual conducting the evaluation promptly shall file ~~it~~.)~~ If the respondent opposes the professional selected by the court visitor, the court visitor shall obtain a professional evaluation from the professional selected by the respondent. The court visitor, after receiving a professional evaluation from the individual selected by the respondent, may obtain a supplemental evaluation from a different professional.

(3) The individual conducting the evaluation shall provide the completed evaluation report to the court visitor within thirty days of the examination of the respondent. The court visitor shall file the report in a sealed record with the court. Unless otherwise directed by the court, the report must contain:

- (a) The professional's name, address, education, and experience;
- (b) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;
- ~~((b))~~ (c) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;
- ~~((c))~~ (d) A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan; ~~(and~~ (d)) (e) A description of the respondent's current medications, and the effect of the medications on the respondent's cognitive and functional abilities;

(f) Identification or persons with whom the professional has met or spoken with regarding the respondent; and

(g) The date of the examination on which the report is based. ~~((3) The)~~ (4) If the respondent ~~(may decline)~~ declines to participate in an evaluation ordered under subsection (1) of this section, the court may proceed with the hearing under RCW 11.130.275 if the court finds that it has sufficient information to determine the respondent's needs and abilities without the professional evaluation.

Sec. 204. RCW 11.130.320 and 2019 c 437 s 312 are each amended to read as follows:

(1) A person interested in an adult's welfare, including the adult for whom the order is sought, may petition for appointment of an emergency guardian for the adult.

(2) An emergency petition under subsection (1) of this section must state the petitioner's name, principal residence, and current street address, if different, and to the extent known, the following:

- (a) The respondent's name, age, principal residence and current street address, if different;
- (b) The name and address of the respondent's:
 - (i) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period immediately before the filing of the emergency petition;
 - (ii) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and
 - (iii) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the emergency petition;

(c) The name and current address of each of the following, if applicable:

- (i) A person responsible for care of the respondent;
- (ii) Any attorney currently representing the respondent;

(iii) Any representative payee appointed by the social security administration for the respondent;

(iv) A guardian or conservator acting for the respondent in this state or in another jurisdiction;

(v) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(vi) Any fiduciary for the respondent appointed by the department of veterans affairs;

(vii) Any representative payee or authorized representative or protective payee;

(viii) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(ix) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(x) A person nominated as guardian by the respondent;

(xi) A person nominated as guardian by the respondent's parent or spouse or domestic partner in a will or other signed record;

(xii) A proposed emergency guardian, and the reason the proposed emergency guardian should be selected; and

(xiii) A person known to have routinely assisted the respondent with decision making during the six months immediately before the filing of the emergency petition;

(d) The reason an emergency guardianship is necessary, including a specific description of:

(i) The nature and extent of the emergency situation;

(ii) The nature and extent of the respondent's alleged emergency need that arose because of the emergency situation;

(iii) The substantial and irreparable harm to the respondent's health, safety, welfare, or rights that is likely to be prevented by the appointment of an emergency guardian;

(iv) All protective arrangements or other less restrictive alternatives that have been considered or implemented to meet the respondent's alleged emergency need instead of emergency guardianship;

(v) If no protective arrangements or other less restrictive alternatives have been considered or implemented instead of emergency guardianship, the reason they have not been considered or implemented; and

(vi) The reason a protective arrangement or other less restrictive alternative instead of emergency guardianship is insufficient to meet the respondent's alleged emergency need;

(e) The reason the petitioner believes that a basis for appointment of a guardian under RCW 11.130.265 exists;

(f) Whether the petitioner intends to also seek guardianship for an adult under RCW 11.130.270;

(g) The reason the petitioner believes that no other person appears to have authority and willingness to act to address the respondent's identified needs caused by the emergency circumstances;

(h) The specific powers to be granted to the proposed emergency guardian and a description of how those powers will be used to meet the respondent's alleged emergency need;

(i) If the respondent has property other than personal effects, a general statement of the respondent's property, with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts; and

(j) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings.

(3) The requirements of RCW 11.130.090 apply to an emergency guardian appointed for an adult with the following exceptions for any proposed emergency guardian required to complete the training under RCW 11.130.090:

(a) The proposed emergency guardian shall present evidence of the successful completion of the required training video or web cast to the court no later than the hearing on the petition for

appointment of an emergency guardian for an adult; and

(b) The superior court may defer the completion of the training requirement to a date no later than fourteen days after appointment if the petitioner requests an extension of time to complete the training due to emergent circumstances beyond the control of petitioner.

(4) On its own after a petition has been filed under RCW 11.130.270, or on petition ((by a person interested in an adult's welfare)) for appointment of an emergency guardian for an adult, the court may appoint an emergency guardian for the adult if the court ((finds)) makes specific findings based on clear and convincing evidence that:

(a) ((Appointment)) An emergency exists such that appointment of an emergency guardian is likely to prevent substantial and irreparable harm to the adult's physical health, safety, or welfare;

(b) The respondent's identified needs caused by the emergency cannot be met by a protective arrangement or other less restrictive alternative instead of emergency guardianship;

(c) No other person appears to have authority and willingness to act ((in the)) to address the respondent's identified needs caused by the emergency circumstances; and

((e)) (d) There is reason to believe that a basis for appointment of a guardian under RCW 11.130.265 exists.

((2)) (5) If the court acts on its own to appoint an emergency guardian after a petition has been filed under RCW 11.130.270, all requirements of this section shall be met.

(6) A court order appointing an emergency guardian for an adult shall:

(a) Grant only the specific powers necessary to meet the adult's identified emergency need and to prevent substantial and irreparable harm to the adult's physical health, safety, or welfare;

(b) Include a specific finding that clear and convincing evidence established that an emergency exists such that appointment of an emergency guardian is likely to prevent substantial and irreparable harm to the respondent's health, safety, or welfare;

(c) Include a specific finding that the identified emergency need of the respondent cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative, including any relief available under chapter 74.34 RCW or use of appropriate supportive services, technological assistance, or supported decision making;

(d) Include a specific finding that clear and convincing evidence established the respondent was given proper notice of the hearing on the petition;

(e) State that the adult subject to emergency guardianship retains all rights the adult enjoyed prior to the emergency guardianship with the exception of the rights not retained during the period of emergency guardianship;

(f) Include the date that the sixty-day period of emergency guardianship ends, and the date the emergency guardian's report, required by this section, is due to the court; and

(g) Identify any person or notice party that subsequently is entitled to:

(i) Notice of the rights of the adult;

(ii) Notice of a change in the primary dwelling of the adult;

(iii) Notice of the removal of the guardian;

(iv) A copy of the emergency guardian's plan and the emergency guardian's report under this section;

(v) Access to court records relating to the emergency guardianship;

(vi) Notice of the death or significant change in the condition of the adult;

(vii) Notice that the court has limited or modified the powers of the emergency guardian; and

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(viii) Notice of the removal of the emergency guardian.

(7) A spouse, a domestic partner, and adult children of an adult subject to emergency guardianship are entitled to notice under this section unless the court orders otherwise based on good cause. Good cause includes the court's determination that notice would be contrary to the preferences or prior directions of the adult subject to emergency guardianship or not in the best interest of the adult subject to the emergency guardianship.

(8) The duration of authority of an emergency guardian for an adult may not exceed sixty days, and the emergency guardian may exercise only the powers specified in the order of appointment. ((The)) Upon a motion by the petitioner, adult subject to emergency guardianship, court visitor, or the emergency guardian, with notice served upon all applicable notice parties, the emergency guardian's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection ((4)) (4) of this section continue.

((3)) (9) Immediately on filing of a petition for appointment of an emergency guardian for an adult, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection ((4)) (10) of this section, ((reasonable)) an order appointing an emergency guardian for the respondent may not be entered unless the respondent, the respondent's attorney, and the court visitor appointed under subsection (11) of this section have received a minimum of fourteen days' notice of the date, time, and place of a hearing on the petition ((must be given to the respondent, the respondent's attorney, and any other person the court determines)). A copy of the emergency petition and notice of a hearing on the petition must be served personally on the respondent, the respondent's attorney, and the court visitor not more than two court days after the petition has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the emergency petition. The court shall not grant the emergency petition if notice substantially complying with this subsection is not served on the respondent.

((4)) (10) The court may appoint an emergency guardian for an adult without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection ((3)) (9) of this section, the court must:

(a) Give notice of the appointment not later than forty-eight hours after the appointment to:

- (i) The respondent;
- (ii) The respondent's attorney; and
- (iii) Any other person the court determines; and

(b) Hold a hearing on the appropriateness of the appointment not later than five days after the appointment.

((5)) (11) On receipt of a petition for appointment of emergency guardian for an adult, the court shall appoint a court visitor. Notice of appointment of the court visitor must be served upon the court visitor within two days of appointment. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the emergency petition. The court, in the order appointing a court visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval.

(a) The court visitor shall within two days of service of notice

of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or the respondent's legal counsel, the petitioner or the petitioner's legal counsel, and any notice party with a statement including the court visitor's: Training relating to the duties as a court visitor; criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; hourly rate, if compensated; contact, if any, with a party to the proceeding prior to appointment; and apparent or actual conflicts of interest.

(b) A court visitor appointed under this section shall use due diligence to attempt to interview the respondent in person and, in a manner the respondent is best able to understand:

(i) Explain to the respondent the substance of the emergency petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the proposed specific powers and duties of the proposed guardian as stated in the emergency petition;

(ii) Determine the respondent's views about the emergency appointment sought by the petitioner, including views about a proposed emergency guardian, the emergency guardian's proposed powers and duties, and the scope and duration of the proposed emergency guardianship; and

(iii) Inform the respondent that all costs and expenses of the proceeding, including but not limited to the respondent's attorneys' fees, the appointed guardian's fees, and the appointed guardian's attorneys' fees, will be paid from the respondent's assets upon approval by the court.

(c) The court visitor appointed under this section shall:

(i) Interview the petitioner and proposed emergency guardian;

(ii) Use due diligence to attempt to visit the respondent's present dwelling;

(iii) Use due diligence to attempt to obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition; and

(iv) Investigate the allegations in the emergency petition and any other matter relating to the emergency petition the court directs.

(d) A court visitor appointed under this section shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any notice party at least seven days prior to the hearing on the emergency petition, which must include:

(i) A summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making, and cannot manage;

(ii) A recommendation regarding the appropriateness of emergency guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available, and if an emergency guardianship is recommended;

(iii) A detailed summary of the alleged emergency and the substantial and irreparable harm to the respondent's health, safety, welfare, or rights that is likely to be prevented by the appointment of an emergency guardian;

(iv) A statement as to whether the alleged emergency and the respondent's alleged needs are likely to require an extension of sixty days as authorized under this section;

(v) The specific powers to be granted to the emergency guardian and how the specific powers will address the alleged emergency and the respondent's alleged need;

(vi) A recommendation regarding the appropriateness of an ongoing guardianship for an adult, including whether a protective

arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available;

(vii) A statement of the qualifications of the proposed emergency guardian and whether the respondent approves or disapproves of the proposed emergency guardian, and the reasons for such approval or disapproval;

(viii) A recommendation whether a professional evaluation under RCW 11.130.290 is necessary;

(ix) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(x) A statement whether the respondent is able to participate in a hearing which identifies any technology or other form of support that would enhance the respondent's ability to participate;

(xi) A statement, as needed when the petition seeks emergency authority to change the respondent's place of dwelling, as to whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to residence; and

(xii) Any other matter the court directs.

(12) An emergency guardian shall:

(a) Comply with the requirements of RCW 11.130.325, the requirements regarding the adult's right to association under RCW 11.130.335, and the requirements of this chapter that pertain to the rights of an adult subject to guardianship;

(b) Not have authority to make decisions or take actions that a guardian for an adult is prohibited by law from having; and

(c) Be subject to the same special limitations on a guardian's power that apply to a guardian for an adult.

(13) Appointment of an emergency guardian under this section is not a determination that a basis exists for appointment of a guardian under RCW 11.130.265.

~~((6))~~ (14) The court may remove an emergency guardian appointed under this section at any time.

(15) The emergency guardian shall file a report in a record with the court and provide a copy of the report to the adult subject to emergency guardianship, and any notice party no later than forty-five days after appointment. The report shall include specific and updated information regarding the emergency alleged in the emergency petition, the adult's emergency needs, all actions and decisions by the emergency guardian, and a recommendation as to whether a guardian for an adult should be appointed. If the appointment of the emergency guardian is extended for an additional sixty days, the emergency guardian shall file a second report in a record with the court and provide a copy of the report to the adult subject to emergency guardianship, and any notice party no later than forty-five days after extension of the appointment is granted by the court, which shall include the same information required for the first report. The emergency guardian shall make any other report the court requires.

(16) The court shall issue letters of emergency guardianship to the emergency guardian in compliance with RCW 11.130.040. Such letters shall be issued on an expedited basis.

Sec. 205. RCW 11.130.330 and 2019 c 437 s 314 are each amended to read as follows:

(1) Except as limited by court order, a guardian for an adult may:

(a) Apply for and receive funds and benefits as a representative payee or an authorized representative or protective payee for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;

(b) Unless inconsistent with a court order, establish the adult's place of dwelling;

(c) Consent to health or other care, treatment, or service for the adult;

(d) If a conservator for the adult has not been appointed,

commence a proceeding, including an administrative proceeding, or take other appropriate action to compel another person to support the adult or pay funds for the adult's benefit;

(e) To the extent reasonable, delegate to the adult responsibility for a decision affecting the adult's well-being; and

(f) Receive personally identifiable health care information regarding the adult.

(2) The court by specific order may authorize a guardian for an adult to consent to the adoption of the adult.

(3) The court by specific order may authorize a guardian for an adult to:

(a) Consent or withhold consent to the marriage of the adult if the adult's right to marry has been removed under RCW 11.130.310;

(b) Petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage; or

(c) Support or oppose a petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage.

(4) In determining whether to authorize a power under subsection (2) or (3) of this section, the court shall consider whether the underlying act would be in accordance with the adult's preferences, values, and prior directions and whether the underlying act would be in the adult's best interest.

(5) In exercising a guardian's power under subsection (1)(b) of this section to establish the adult's place of dwelling, the guardian shall:

(a) Select a residential setting the guardian believes the adult would select if the adult were able, in accordance with the decision-making standard in RCW 11.130.325 (4) and (5). If the guardian does not know and cannot reasonably determine what setting the adult subject to guardianship probably would choose if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall choose in accordance with RCW 11.130.325(5) a residential setting that is consistent with the adult's best interest;

(b) In selecting among residential settings, give priority to a residential setting in a location that will allow the adult to interact with persons important to the adult and meet the adult's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in RCW 11.130.325 (4) and (5);

(c) Not later than thirty days after a change in the dwelling of the adult:

(i) Give notice of the change to the court, the adult, and any ~~((person identified as entitled to the notice in the court order appointing the guardian or a subsequent order))~~ other notice party; and

(ii) Include in the notice the address and nature of the new dwelling and state whether the adult received advance notice of the change and whether the adult objected to the change;

(d) Establish or move the permanent place of dwelling of the adult to a ~~((nursing home, mental health facility, or other facility))~~ care setting that places restrictions on the adult's ability to leave or have visitors only if:

(i) The establishment or move is in the guardian's plan under RCW 11.130.340;

(ii) The court authorizes the establishment or move; or

(iii) The guardian gives notice of the establishment or move at least fourteen days before the establishment or move to the adult and all persons entitled to notice under RCW 11.130.310(5)(b) or a subsequent order, and no objection is filed;

(e) Establish or move the place of dwelling of the adult outside this state only if consistent with the guardian's plan and authorized

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by the court by specific order; and

(f) Take action that would result in the sale of or surrender of the lease to the primary dwelling of the adult only if:

(i) The action is specifically included in the guardian's plan under RCW 11.130.340;

(ii) The court authorizes the action by specific order; or

(iii) Notice of the action was given at least fourteen days before the action to the adult and all persons entitled to the notice under RCW 11.130.310(5)(b) or a subsequent order and no objection has been filed.

(6) In exercising a guardian's power under subsection (1)(c) of this section to make health care decisions, the guardian shall:

(a) Involve the adult in decision making to the extent reasonably feasible, including, when practicable, by encouraging and supporting the adult in understanding the risks and benefits of health care options;

(b) Defer to a decision by an agent under a power of attorney for health care executed by the adult and cooperate to the extent feasible with the agent making the decision; and

(c) Take into account:

(i) The risks and benefits of treatment options; and

(ii) The current and previous wishes and values of the adult, if known or reasonably ascertainable by the guardian.

(7) Notwithstanding subsection (1)(b) of this section no ~~((residential treatment facility))~~ care setting which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize such involuntary detention or purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an individual subject to a guardianship shall be void and of no force or effect. ~~((This section does not apply to the detention of a minor as provided in chapter 71.34 RCW.))~~

(8) Nothing in this section shall be construed to require a court order authorizing placement of an incapacitated person in a ~~((residential treatment facility))~~ care setting if such order is not otherwise required by law: PROVIDED, That notice of any residential placement of an individual subject to a guardianship shall be served, either before or after placement, by the guardian or limited guardian on such individual, any court visitor of record, any guardian ad litem of record, and any attorney of record.

Sec. 206. RCW 11.130.335 and 2019 c 437 s 315 are each amended to read as follows:

(1) ~~((Unless authorized by the court by specific order, a))~~ A guardian for an adult does not have the power to revoke or amend a power of attorney for health care or power of attorney for finances executed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent which the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. The court has authority to revoke or amend any power of attorney executed by the adult.

(2) A guardian for an adult ~~((may))~~ shall not initiate the commitment of the adult to an evaluation and treatment facility except in accordance with the ~~((state's procedure for involuntary civil commitment))~~ provisions of chapter 10.77, 71.05, or 72.23 RCW.

(3) Unless authorized by the court in accordance with

subsection (4) of this section within the past thirty days, a guardian for an adult may not consent to any of the following procedures for the adult:

(a) Therapy or other procedure to induce convulsion;

(b) Surgery solely for the purpose of psychosurgery; or

(c) Other psychiatric or mental health procedures that restrict physical freedom of movement or the rights set forth in RCW 71.05.217.

(4) The court may order a procedure listed in subsection (3) of this section only after giving notice to the adult's attorney and holding a hearing. If the adult does not have an attorney, the court must appoint an attorney for the adult prior to entering an order under this subsection.

(5) Persons under a guardianship, conservatorship, or other protective arrangements—Right to associate with persons of their choosing.

(a) Except as otherwise provided in this section, ~~((a person under a guardianship retains the right to associate with persons of the person under a guardianship's choosing. This right includes, but is not limited to, the right to freely communicate and interact with other persons, whether through in person visits, telephone calls, electronic communication, personal mail, or other means. If the person under a guardianship is unable to express consent for communication, visitation, or interaction with another person, or is otherwise unable to make a decision regarding association with another person, a guardian of a person under a guardianship, whether full or limited, must:~~

~~(i) Personally inform the person under a guardianship of the decision under consideration, using plain language, in a manner calculated to maximize the understanding of the person under a guardianship;~~

~~(ii) Maximize the person under a guardianship's participation in the decision making process to the greatest extent possible, consistent with the person under a guardianship's abilities; and~~

~~(iii) Give substantial weight to the person under a guardianship's preferences, both expressed and historical.~~

~~(b) A guardian or limited guardian may not restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing, unless:~~

~~(i) The restriction is specifically authorized by the guardianship court in the court order establishing or modifying the guardianship or limited guardianship under chapter 11.130 RCW;~~

~~(ii) The restriction is pursuant to a protection order issued under chapter 74.34 RCW, chapter 26.50 RCW, or other law, that limits contact between the person under a guardianship and other persons;~~

~~(iii)(A) The guardian or limited guardian has good cause to believe that there is an immediate need to restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing in order to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation, as those terms are defined in RCW 74.34.020, or to protect the person under a guardianship from activities that unnecessarily impose significant distress on the person under a guardianship; and~~

~~(B) Within fourteen calendar days of imposing the restriction under (b)(iii)(A) of this subsection, the guardian or limited guardian files a petition for a protection order under chapter 74.34 RCW. The immediate need restriction may remain in place until the court has heard and issued an order or decision on the petition; or~~

~~(iv) The restriction is pursuant to participation in the community protection program under chapter 71A.12 RCW.~~

~~(6) A protection order under chapter 74.34 RCW issued to~~

~~protect the person under a guardianship)) an adult subject to a guardianship, conservatorship, or other protective arrangement retains the right to associate with other persons of the adult's choosing. This right includes, but is not limited to, the right to freely communicate and interact with other persons, whether through in-person visits, telephone calls, electronic communication, personal mail, or other means. If the adult subject to a guardianship, conservatorship, or other protective arrangement is unable to express consent for communication, visitation, or interaction with another person, or is otherwise unable to make a decision regarding association with another person, the guardian, conservator, or person acting under a protective arrangement, whether full or limited, must:~~

~~(i) Personally inform the adult subject to a guardianship, conservatorship, or other protective arrangement of the decision under consideration, using plain language, in a manner calculated to maximize the understanding of the adult;~~

~~(ii) Maximize the adult's participation in the decision-making process to the greatest extent possible, consistent with the adult's abilities; and~~

~~(iii) Give substantial weight to the adult's preferences, both expressed and historical.~~

~~(b) A guardian or limited guardian, a conservator or limited conservator, or a person acting under a protective arrangement may not restrict an adult's right to communicate, visit, interact, or otherwise associate with persons of the adult's choosing, unless:~~

~~(i) The restriction is specifically authorized by the court in the court order establishing or modifying the guardianship or limited guardianship, the conservatorship or limited conservatorship, or the protective arrangement under this chapter;~~

~~(ii) The restriction is pursuant to a protection order issued under chapter 74.34 or 26.50 RCW, or other law, that limits contact between the adult under a guardianship, conservatorship, or other protective arrangement and other persons;~~

~~(iii)(A) The guardian or limited guardian, the conservator or limited conservator, or the person acting under the protective arrangement has good cause to believe that there is an immediate need to restrict the adult's right to communicate, visit, interact, or otherwise associate with persons of the adult's choosing in order to protect the adult from abuse, neglect, abandonment, or financial exploitation, as those terms are defined in RCW 74.34.020, or to protect the adult from activities that unnecessarily impose significant distress on the adult; and~~

~~(B) Within fourteen calendar days of imposing the restriction under (b)(iii)(A) of this subsection, the guardian or limited guardian, the conservator or limited conservator, or person acting under the protective arrangement files a petition for a protection order under chapter 74.34 RCW. The immediate need restriction may remain in place until the court has heard and issued an order or decision on the petition; or~~

~~(iv) The restriction is pursuant to participation in the community protection program under chapter 71A.12 RCW.~~

~~(6) A protection order under chapter 74.34 RCW issued to protect the adult under a guardianship, conservatorship, or other protective arrangement as described in subsection (5)(b)(iii)(B) of this section:~~

~~(a) Must include written findings of fact and conclusions of law;~~

~~(b) May not be more restrictive than necessary to protect the ((person under a guardianship)) adult from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020; and~~

~~(c) May not deny communication, visitation, interaction, or other association between the ((person under a guardianship)) adult and another person unless the court finds that placing reasonable time, place, or manner restrictions is unlikely to~~

sufficiently protect the ((person under a guardianship)) adult from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020.

Sec. 207. RCW 11.130.340 and 2019 c 437 s 317 are each amended to read as follows:

(1) A guardian for an adult, not later than ninety days after appointment, shall file with the court a plan for the care of the adult and shall provide a copy of the plan to the adult subject to guardianship(~~(, a person entitled to notice under RCW 11.130.310(5) or a subsequent order,))~~ and any other ((~~person the court determines~~)) notice party. The plan must be based on the needs of the adult and take into account the best interest of the adult as well as the adult's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the guardian. The guardian shall include in the plan:

(a) The living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;

(b) Social and educational activities the guardian expects to facilitate on behalf of the adult;

(c) Any person with whom the adult has a close personal relationship or relationship involving regular visitation and any plan the guardian has for facilitating visits with the person;

(d) The anticipated nature and frequency of the guardian's visits and communication with the adult;

(e) Goals for the adult, including any goal related to the restoration of the adult's rights, and how the guardian anticipates achieving the goals;

(f) Whether the adult has an existing plan and, if so, whether the guardian's plan is consistent with the adult's plan; and

(g) A statement or list of the amount the guardian proposes to charge for each service the guardian anticipates providing to the adult.

(2) A guardian shall give notice of the filing of the guardian's plan under subsection (1) of this section, together with a copy of the plan, to the adult subject to guardianship(~~(, a person entitled to notice under RCW 11.130.310(5) or a subsequent order,))~~ and any other ((~~person the court determines~~)) notice party. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An adult subject to guardianship and any person entitled under subsection (2) of this section to receive notice and a copy of the guardian's plan may object to the plan.

(4) The court shall review the guardian's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of this section and whether the plan is consistent with the guardian's duties and powers under RCW 11.130.325 and 11.130.330. The court may not approve the plan until thirty days after its filing.

(5) After the guardian's plan filed under this section is approved by the court, the guardian shall provide a copy of the order approving the plan to the adult subject to guardianship(~~(, a person entitled to notice under RCW 11.130.310(5) or a subsequent order,))~~ and any other ((~~person the court determines~~)) notice party.

Sec. 208. RCW 11.130.345 and 2019 c 437 s 318 are each amended to read as follows:

(1) A guardian for an adult shall file with the court by the date established by the court a report in a record regarding the condition of the adult and accounting for funds and other property in the guardian's possession or subject to the guardian's control. The guardian shall provide a copy of the report to the adult subject to guardianship(~~(, a person entitled to notice under RCW 11.130.310(5) or a subsequent order,))~~ and any other ((~~person the court determines~~)) notice party.

(2) A report under subsection (1) of this section must state or

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contain:

- (a) The mental, physical, and social condition of the adult;
- (b) The living arrangements of the adult during the reporting period;
- (c) A summary of the supported decision making, technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult and the guardian's opinion as to the adequacy of the adult's care;
- (d) A summary of the guardian's visits with the adult, including the dates of the visits;
- (e) Action taken on behalf of the adult;
- (f) The extent to which the adult has participated in decision making;
- (g) If the adult is living in ~~((an evaluation and treatment facility or living in a facility that provides the adult with health care or other personal services))~~ a care setting, whether the guardian considers the facility's current plan for support, care, treatment, or habilitation consistent with the adult's preferences, values, prior directions, and best interests;
- (h) Anything of more than de minimis value which the guardian, any individual who resides with the guardian, or the spouse, domestic partner, parent, child, or sibling of the guardian has received from an individual providing goods or services to the adult. A professional guardian must abide by the standards of practice regarding the acceptance of gifts;
 - (i) If the guardian delegated a power to an agent, the power delegated and the reason for the delegation;
 - (j) Any business relation the guardian has with a person the guardian has paid or that has benefited from the property of the adult;
 - (k) A copy of the guardian's most recently approved plan under RCW 11.130.340 and a statement whether the guardian has deviated from the plan and, if so, how the guardian has deviated and why;
 - (l) Plans for future care and support of the adult;
 - (m) A recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship; and
 - (n) Whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve.
- (3) The court may appoint a court visitor to review a report submitted under this section or a guardian's plan submitted under RCW 11.130.340, interview the guardian or adult subject to guardianship, or investigate any other matter involving the guardianship.
- (4) Notice of the filing under this section of a guardian's report, together with a copy of the report, must be given to the adult subject to guardianship ~~((a person entitled to notice under RCW 11.130.310(5) or a subsequent order,))~~ and any other ~~((person the court determines))~~ notice party. The notice and report must be given not later than fourteen days after the filing.
- (5) The court shall establish procedures for monitoring a report submitted under this section and review each report to determine whether:
 - (a) The report provides sufficient information to establish the guardian has complied with the guardian's duties;
 - (b) The guardianship should continue; and
 - (c) The guardian's requested fees, if any, should be approved.
- (6) If the court determines there is reason to believe a guardian for an adult has not complied with the guardian's duties or the guardianship should be modified or terminated, the court:
 - (a) Shall notify the adult, the guardian, and any other person entitled to notice under RCW 11.130.310(5) or a subsequent order;

- (b) May require additional information from the guardian;
 - (c) May appoint a court visitor to interview the adult or guardian or investigate any matter involving the guardianship; and
 - (d) Consistent with this section and RCW 11.130.350, may hold a hearing to consider removal of the guardian, termination of the guardianship, or a change in the powers granted to the guardian or terms of the guardianship.
 - (7) If the court has reason to believe fees requested by a guardian for an adult are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.
 - (8) A guardian for an adult must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.
 - (9) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review interval at annual, biennial, or triennial with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the guardian has been serving the person under guardianship; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian.
 - (10) If the court approves a report filed under this section, the order approving the report shall contain a guardianship summary or be accompanied by a guardianship summary in the form or substantially in the same form as set forth in RCW 11.130.665.
 - (11) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in RCW 11.130.660 to the guardian containing an expiration date which will be within one hundred twenty days after the date the court directs the guardian file its next report.
 - (12) Any requirement to establish a monitoring program under this section is subject to appropriation.
- Sec. 209.** RCW 11.130.360 and 2019 c 437 s 401 are each amended to read as follows:
- (1) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of a minor if the court finds by a preponderance of evidence that appointment of a conservator is in the minor's best interest, and:
 - (a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an appointment is in the minor's best interest; and
 - (b) Either:
 - (i) The minor owns funds or other property requiring management or protection that otherwise cannot be provided;
 - (ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or
 - (iii) Appointment is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the minor.
 - (2) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:
 - (a) The adult is unable to manage property or financial affairs because:
 - (i) Of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services, technological assistance, or

supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) Appointment is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or of an individual entitled to the adult's support; and

(c) The ~~((respondent's))~~ adult's identified needs cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives.

(3) The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full conservatorship if a limited conservatorship, protective arrangement instead of conservatorship, or other less restrictive alternative would meet the needs of the respondent.

(4) A determination by the court that a basis under subsection (2) of this section exists for the appointment of a conservator for an adult and on the issue of the rights that will be retained or restricted by the appointment of a conservator is a legal, not a medical decision. The determination must be based on demonstrated management insufficiencies over time in the area of property or financial affairs. Age, eccentricity, poverty, or medical diagnosis alone are not a sufficient basis under subsection (2) of this section to justify a determination that a conservator should be appointed for the respondent.

(5) For purposes of subsection (2) of this section, an adult who resides in a long-term care facility, resides in another care setting, or is the subject of an involuntary commitment order is not considered missing or detained.

Sec. 210. RCW 11.130.370 and 2019 c 437 s 403 are each amended to read as follows:

(1) All petitions filed under RCW 11.130.365 for appointment of a conservator shall be heard within sixty days unless an extension of time is requested by a party or the court visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2)(a) A copy of a petition under RCW 11.130.365 and notice of a hearing on the petition must be served personally on the respondent ~~((and)),~~ the court visitor appointed under RCW 11.130.380, and the appointed or proposed guardian not more than five court days after the petition under RCW 11.130.365 has been filed. If the respondent's whereabouts are unknown or personal service cannot be made, service on the respondent must be made by publication. ~~((The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition.))~~

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the respondent that could be restricted or transferred to a conservator by a conservatorship order as well as the right to counsel of choice and to a jury trial whether a basis exists under RCW 11.130.360(2) for the appointment of a conservator and the issue of the respondent's rights that will be retained or restricted if a conservator is appointed. Such notice must be in substantially the same form as set forth in section 321 of this act and must be double-spaced and in a type size not smaller than sixteen point font. The court may not grant ~~((a))~~ the petition ~~((for appointment of a conservator))~~ if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under RCW 11.130.365, the notice required under subsection (2) of this section must be ~~((given to))~~ served upon the persons required to be listed in the petition under RCW 11.130.365(2) (a) through (c) and any other ~~((person interested in the respondent's welfare the court determines))~~ notice party. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

(4) After the appointment of a conservator, notice of a hearing on a petition for an order under this article, together with a copy of the petition, must be given to:

(a) The individual subject to conservatorship, if the individual is twelve years of age or older and not missing, detained, or unable to return to the United States;

(b) The conservator; and

(c) Any other notice party or person the court determines pursuant to RCW 11.130.420(6) or a subsequent court order.

Sec. 211. RCW 11.130.385 and 2019 c 437 s 406 are each amended to read as follows:

(1)(a) The respondent shall have the right to be represented by a willing attorney of their choosing at any stage in conservatorship proceedings. Any attorney purporting to represent a respondent or person subject to conservatorship shall petition the court to be appointed to represent the respondent or person subject to conservatorship.

(b) Unless the respondent in a proceeding for appointment of a conservator is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay, except as provided otherwise in (c) of this subsection.

(c)(i) The court must appoint an attorney to represent the respondent at public expense when either:

(A) The respondent is unable to afford an attorney;

(B) The expense of an attorney would result in substantial hardship to the respondent; or

(C) The respondent does not have practical access to funds with which to pay an attorney. If the respondent can afford an attorney but lacks practical access to funds, the court must provide an attorney and may impose a reimbursement requirement as part of a final order.

(ii) When, in the opinion of the court, the rights and interests of the respondent cannot otherwise be adequately protected and represented, the court on its own motion must appoint an attorney at any time to represent the respondent.

(iii) An attorney must be provided under this subsection (1)(c) as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks is presumed by a reviewing court to be inadequate time for consultation and preparation.

(2) An attorney representing the respondent in a proceeding for appointment of a conservator shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration, and scope, consistent with the respondent's interests.

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under RCW 11.130.365 if:

(a) The parent objects to appointment of a conservator;

(b) The court determines that counsel is needed to ensure that consent to appointment of a conservator is informed; or

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(c) The court otherwise determines the parent needs representation.

Sec. 212. RCW 11.130.390 and 2019 c 437 s 407 are each amended to read as follows:

~~(1) ((At or before a hearing on a petition for conservatorship for an adult, the court shall order a professional evaluation of the respondent:~~

~~(a) If the respondent requests the evaluation; or
(b) In other cases, unless the court finds it has sufficient information to determine the respondent's needs and abilities without the evaluation-))~~ On receipt of a petition under RCW 11.130.360 and at the time the court appoints a court visitor under RCW 11.130.380, the court shall order a professional evaluation of the respondent.

~~(2) ((If the court orders an evaluation under subsection (1) of this section, the))~~ The respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, ((or)) advanced registered nurse practitioner licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A RCW, selected by the court visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. If the respondent opposes the professional selected by the court visitor, the court visitor shall obtain a professional evaluation from the professional selected by the respondent. The court visitor, after receiving a professional evaluation from the individual selected by the respondent, may obtain a supplemental evaluation from a different professional.

~~(3) The individual conducting the evaluation ((promptly)) shall promptly provide the completed evaluation report to the court visitor who shall file ((it)) the report in a sealed record with the court. Unless otherwise directed by the court, the report must contain:~~

~~(a) The professional's name, address, education, and experience;~~

~~(b) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations with regard to the management of the respondent's property and financial affairs;~~

~~((b)) (c) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;~~

~~((c)) (d) A prognosis for improvement with regard to the ability to manage the respondent's property and financial affairs; ((and~~

~~((d)) (e) A description of the respondent's current medications, and the effect of the medications on the respondent's cognitive and functional abilities;~~

~~(f) Identification or persons with whom the professional has met or spoken with regarding the respondent; and~~

~~(g) The date of the examination on which the report is based.~~

~~((3) A) (4) If the respondent ((may decline)) declines to participate in an evaluation ordered under subsection (1) of this section, the court may proceed with the hearing under RCW 11.130.370 if the court finds that it has sufficient information to determine the respondent's needs and abilities without the professional evaluation.~~

(5) A professional evaluation is not required if a petition for appointment of a conservator under RCW 11.130.360 is for a conservator for the property or financial affairs of a minor or for an adult missing, detained, or unable to return to the United States.

Sec. 213. RCW 11.130.410 and 2019 c 437 s 409 are each

amended to read as follows:

(1) The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to conservatorship, or the parent of a minor subject to conservatorship requests the record be sealed; and

(b) Either:

(i) The petition for conservatorship is dismissed; or
(ii) The conservatorship is terminated.

(2) An individual subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated by the individual, and a person entitled to notice under RCW 11.130.420(6) or a subsequent order may access court records of the proceeding and resulting conservatorship, including the conservator's plan under RCW 11.130.510 and the conservator's report under RCW 11.130.530. A person not otherwise entitled access to court records under this section for good cause may petition the court for access to court records of the conservatorship, including the conservator's plan and report. The court shall grant access if access is in the best interest of the respondent or individual subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report under RCW 11.130.380 of a court visitor or professional evaluation under RCW 11.130.390 is confidential and must be sealed on filing, but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, court visitor, ((and)) petitioner's and respondent's attorneys, and proposed guardians, for purposes of the proceeding;

(d) Unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the respondent is identified as the principal; and

(e) Any other person if it is in the public interest or for a purpose the court orders for good cause.

Sec. 214. RCW 11.130.415 and 2019 c 437 s 410 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, the court in appointing a conservator shall consider persons qualified to be a conservator in the following order of priority:

(a) A conservator, other than a temporary or emergency conservator, currently acting for the respondent in another jurisdiction;

(b) A person nominated as conservator by the respondent, including the respondent's most recent nomination made in a power of attorney for finances;

(c) An agent appointed by the respondent to manage the respondent's property under a power of attorney for finances;

(d) A spouse or domestic partner of the respondent;

(e) A relative or other individual who has shown special care and concern for the respondent; and

(f) A certified professional guardian or conservator or other entity the court determines is suitable.

(2) If two or more persons have equal priority under subsection (1) of this section, the court shall select as conservator the person the court considers best qualified. In determining the best qualified person, the court shall consider the person's relationship with the respondent, the person's skills, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a conservator successfully.

(3) The court, acting in the best interest of the respondent, may decline to appoint as conservator a person having priority under subsection (1) of this section and appoint a person having a lower priority or no priority.

(4) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent or is the spouse, domestic partner, parent, or child of an individual who provides or is employed to provide paid services to the respondent, may not be appointed as conservator unless:

(a) The individual is related to the respondent by blood(~~(, marriage, or adoption)~~) or law; or

(b) The court finds by clear and convincing evidence that the person is the best qualified person available for appointment and the appointment is in the best interest of the respondent.

(5) An owner, operator, or employee of a long-term care facility at which the respondent is receiving care may not be appointed as conservator unless the owner, operator, or employee is related to the respondent by blood(~~(, marriage, or adoption)~~) or law.

Sec. 215. RCW 11.130.420 and 2019 c 437 s 411 are each amended to read as follows:

(1) A court order appointing a conservator for a minor must include findings to support appointment of a conservator and, if a full conservatorship is granted, the reason a limited conservatorship would not meet the identified needs of the minor.

(2) A court order appointing a conservator for a minor may dispense with the requirement for the conservator to file reports with the court under RCW 11.130.530 if all the property of the minor subject to the conservatorship is protected by a verified receipt.

(3) A court order appointing a conservator for an adult must:

(a) Include a specific finding that clear and convincing evidence has established that the identified needs of the respondent cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives, including use of appropriate supportive services, technological assistance, or supported decision making; and

(b) Include a specific finding that clear and convincing evidence established the respondent was given proper notice of the hearing on the petition.

(4) A court order establishing a full conservatorship for an adult must state the basis for granting a full conservatorship and include specific findings to support the conclusion that a limited conservatorship would not meet the functional needs of the adult.

(5) A court order establishing a limited conservatorship must state the specific property placed under the control of the conservator and the powers granted to the conservator.

(6) The court, as part of an order establishing a conservatorship, shall identify any person that subsequently is entitled to:

(a) Notice of the rights of the individual subject to conservatorship under RCW 11.130.425(2);

(b) Notice of a sale of or surrender of a lease to the primary dwelling of the individual;

(c) Notice that the conservator has delegated a power that requires court approval under RCW 11.130.435 or substantially all powers of the conservator;

(d) Notice that the conservator will be unavailable to perform the conservator's duties for more than one month;

(e) A copy of the conservator's plan under RCW 11.130.510 and the conservator's report under RCW 11.130.530;

(f) Access to court records relating to the conservatorship;

(g) Notice of a transaction involving a substantial conflict between the conservator's fiduciary duties and personal interests;

(h) Notice of the death or significant change in the condition of the individual;

(i) Notice that the court has limited or modified the powers of the conservator; and

(j) Notice of the removal of the conservator.

(7) If an individual subject to conservatorship is an adult, the spouse, domestic partner, and adult children of the adult subject to conservatorship are entitled under subsection (6) of this section to notice unless the court (~~(determines)~~) orders otherwise based on good cause. Good cause includes the court's determination that notice would be contrary to the preferences or prior directions of the adult subject to conservatorship (~~(or not in the best interest of the adult)~~).

(8) If an individual subject to conservatorship is a minor, each parent and adult sibling of the minor is entitled under subsection (6) of this section to notice unless the court determines notice would not be in the best interest of the minor.

(9) All orders establishing a conservatorship for an adult must contain:

(a) A conservatorship summary placed directly below the case caption or on a separate cover page in the form or substantially the same form as set forth in RCW 11.130.665;

(b) The date which the limited conservator or conservator must file the conservator's plan under RCW 11.130.510;

(c) The date which the limited conservator or conservator must file an inventory under RCW 11.130.515;

(d) The date by which the court will review the conservator's plan as required by RCW 11.130.510;

(e) The report interval which the conservator must file its report under RCW 11.130.530. The report interval may be annual, biennial, or triennial;

(f) The date the limited conservator or conservator must file its report under RCW 11.130.530. The due date of the filing of the report shall be within ninety days after the anniversary date of the appointment;

(g) The date for the court to review the report under RCW 11.130.530 and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment.

Sec. 216. RCW 11.130.425 and 2019 c 437 s 412 are each amended to read as follows:

(1) A conservator appointed under RCW 11.130.420 shall give to the individual subject to conservatorship and to all other persons (~~(given)~~) entitled to notice pursuant to an order under RCW (~~(11.130.370)~~) 11.130.420(6) or a subsequent order a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen days after the appointment.

(2) Not later than thirty days after appointment of a conservator under RCW 11.130.420, the conservator shall give to the individual subject to conservatorship and any other person entitled to notice under RCW 11.130.420(6) a statement of the rights of the individual subject to conservatorship and procedures to seek relief if the individual is denied those rights. The statement must be in plain language, in at least sixteen-point font, and to the extent feasible, in a language in which the individual subject to conservatorship is proficient. The statement must notify the individual subject to conservatorship of the right to:

(a) Seek termination or modification of the conservatorship, or removal of the conservator, and choose an attorney to represent the individual in these matters;

(b) Participate in decision making to the extent reasonably feasible;

(c) Receive a copy of the conservator's plan under RCW 11.130.510, the conservator's inventory under RCW 11.130.515, and the conservator's report under RCW 11.130.530; and

(d) Object to the conservator's inventory, plan, or report.

(3) If a conservator is appointed for the reasons stated in RCW

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11.130.360(2)(a)(ii) and the individual subject to conservatorship is missing, notice under this section to the individual is not required.

Sec. 217. RCW 11.130.430 and 2019 c 437 s 413 are each amended to read as follows:

(1) A person interested in an individual's welfare, including the individual for whom the order is sought, may petition for appointment of an emergency conservator for the individual.

(2) An emergency petition under subsection (1) of this section must state the petitioner's name, principal residence, and current street address, if different, and to the extent known, the following:

(a) The respondent's name, age, principal residence and current street address, if different;

(b) The name and address of the respondent's:

(i) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period immediately before the filing of the emergency petition;

(ii) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(iii) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the emergency petition;

(c) The name and current address of each of the following, if applicable:

(i) A person responsible for care of the respondent;

(ii) Any attorney currently representing the respondent;

(iii) Any representative payee appointed by the social security administration for the respondent;

(iv) A guardian or conservator acting for the respondent in this state or in another jurisdiction;

(v) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(vi) Any fiduciary for the respondent appointed by the department of veterans affairs;

(vii) Any representative payee or authorized representative or protective payee;

(viii) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(ix) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(x) A person nominated as conservator by the respondent;

(xi) A person nominated as conservator by the respondent's parent or spouse or domestic partner in a will or other signed record;

(xii) A proposed emergency conservator, and the reason the proposed emergency conservator should be selected; and

(xiii) A person known to have routinely assisted the respondent with decision making during the six months immediately before the filing of the emergency petition;

(d) The reason an emergency conservatorship is necessary, including a specific description of:

(i) The nature and extent of the emergency situation;

(ii) The nature and extent of the individual's alleged emergency need that arose because of the emergency situation;

(iii) The substantial and irreparable harm to the individual's property or financial interests that is likely to be prevented by the appointment of an emergency conservator;

(iv) All protective arrangements or other less restrictive alternatives that have been considered or implemented to meet the individual's alleged emergency needs instead of emergency conservatorship;

(v) If no protective arrangements or other less restrictive

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alternatives have been considered or implemented instead of emergency conservatorship, the reason they have not been considered or implemented; and

(vi) The reason a protective arrangement or other less restrictive alternative instead of emergency conservatorship is insufficient to meet the individual's alleged emergency need;

(e) The reason the petitioner believes that a basis for appointment of a conservator under RCW 11.130.360 exists;

(f) Whether the petitioner intends to also seek conservatorship for an individual under RCW 11.130.365;

(g) The reason the petitioner believes that no other person appears to have authority and willingness to act to address the individual's identified needs caused by the emergency circumstances;

(h) The specific powers to be granted to the proposed emergency conservator and a description of how those powers will be used to meet the individual's alleged emergency need;

(i) If the individual has property other than personal effects, a general statement of the individual's property, with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts; and

(j) Whether the individual needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings.

(3) The requirements of RCW 11.130.090 apply to an emergency conservator appointed for an individual with the following exceptions for any proposed emergency conservator required to complete the training under RCW 11.130.090:

(a) The proposed emergency conservator shall present evidence of the successful completion of the required training video or web cast to the court no later than the hearing on the petition for appointment of an emergency conservator for an individual; and

(b) The superior court may defer the completion of the training requirement to a date no later than fourteen days after appointment if the petitioner requests an extension of time to complete the training due to emergent circumstances beyond the control of petitioner.

(4) On its own or on petition (~~by a person interested in an individual's welfare~~) for appointment of an emergency conservator for an individual after a petition has been filed under RCW 11.130.365, the court may appoint an emergency conservator for the individual if the court (~~finds~~) makes specific findings based on clear and convincing evidence that:

(a) (~~Appointment~~) An emergency exists such that appointment of an emergency conservator is likely to prevent substantial and irreparable harm to the individual's property or financial interests;

(b) The individual's identified needs caused by the emergency cannot be met by a protective arrangement or other less restrictive alternative instead of emergency conservatorship;

(c) No other person appears to have authority and willingness to act (~~in the~~) to address the individual's identified needs caused by the emergency circumstances; and

(~~(e)~~) (d) There is reason to believe that a basis for appointment of a conservator under RCW 11.130.360 exists.

(~~(2)~~) (5) If the court acts on its own to appoint an emergency conservator after a petition has been filed under RCW 11.130.365, all requirements of this section shall be met.

(6) A court order appointing an emergency conservator for an individual shall:

(a) Grant only the specific powers necessary to meet the individual's identified emergency need and to prevent substantial and irreparable harm to the individual's property or financial interests;

(b) Include a specific finding that clear and convincing evidence established that an emergency exists such that appointment of an emergency conservator is likely to prevent substantial and irreparable harm to the individual's property or financial interests;

(c) Include a specific finding that the identified emergency need of the individual cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternative, including any relief available under chapter 74.34 RCW or use of appropriate supportive services, technological assistance, or supported decision making;

(d) Include a specific finding that clear and convincing evidence established the adult respondent was given proper notice of the hearing on the petition;

(e) State that the individual subject to emergency conservatorship retains all rights the individual enjoyed prior to the emergency conservatorship with the exception of the rights not retained during the period of emergency conservatorship;

(f) Require the emergency conservator to furnish a bond or other security under RCW 11.130.445;

(g) Include the date that the sixty-day period of emergency conservatorship ends, and the date the emergency conservator's report, required by this section, is due to the court; and

(h) Identify any person or notice party that subsequently is entitled to:

(i) Notice of the rights of the individual;

(ii) Notice of a change in the primary dwelling of the individual;

(iii) Notice of the removal of the conservator;

(iv) A copy of the emergency conservator's plan and the emergency conservator's report under this section;

(v) Access to court records relating to the emergency conservatorship;

(vi) Notice of the death or significant change in the condition of the individual;

(vii) Notice that the court has limited or modified the powers of the emergency conservator; and

(viii) Notice of the removal of the emergency conservator.

(7) A spouse, a domestic partner, and adult children of an adult subject to emergency conservatorship are entitled to notice under this section unless the court orders otherwise based on good cause. Good cause includes the court's determination that notice would be contrary to the preferences or prior directions of the individual subject to emergency conservatorship or in the best interest of the individual.

(8) The duration of authority of an emergency conservator may not exceed sixty days and the emergency conservator may exercise only the powers specified in the order of appointment. ~~((The))~~ Upon a motion by the emergency conservator, with notice served upon all applicable notice parties, the emergency conservator's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency conservator under subsection ~~((+))~~ (4) of this section continue.

~~((3))~~ (9) Immediately on filing of a petition for an emergency conservator for an adult, the court shall appoint an attorney to represent the ~~((respondent))~~ adult in the proceeding. ~~((Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines))~~ An order appointing an emergency conservator for an adult may not be entered unless the adult respondent, the adult respondent's attorney, and the court visitor appointed under subsection (10) of this section have received a minimum of fourteen days' notice of the date, time, and place of a hearing on the petition. A copy of the emergency

petition and notice of a hearing on the petition must be served personally on the adult respondent, the adult respondent's attorney, and the court visitor appointed under subsection (10) of this section not more than two court days after the petition has been filed. The notice must inform the respondent of the adult respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the emergency petition. The court shall not grant the emergency petition if notice substantially complying with this subsection is not served on the respondent.

~~((4))~~ The court may appoint an emergency conservator without notice to the respondent and any attorney for the respondent only if the court finds from an affidavit or testimony that the respondent's property or financial interests will be substantially and irreparably harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency conservator without giving notice under subsection (3) of this section, the court must give notice of the appointment not later than forty-eight hours after the appointment to:

(a) The respondent;

(b) The respondent's attorney; and

(c) Any other person the court determines.

(5) Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

~~(6))~~ (10)(a) On receipt of a petition for appointment of emergency conservator for an individual, the court:

(i) Shall appoint a court visitor if an emergency conservator is sought for an adult; or

(ii) May appoint a court visitor if an emergency conservator is sought for a minor.

(b) Notice of appointment of the court visitor must be served upon the court visitor within two days of appointment. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the emergency petition. The court, in the order appointing a court visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval.

(c) The court visitor shall within two days of service of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or the respondent's legal counsel, the petitioner or the petitioner's legal counsel, and any notice party with a statement including the court visitor's: Training relating to the duties as a court visitor; criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; hourly rate, if compensated; contact, if any, with a party to the proceeding prior to appointment; and apparent or actual conflicts of interest.

(d) A court visitor appointed under this section shall use due diligence to attempt to interview the adult respondent in person and, in a manner the individual is best able to understand:

(i) Explain to the adult respondent the substance of the emergency petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the proposed specific powers and duties of the proposed conservator as stated in the emergency petition;

(ii) Determine the adult respondent's views about the emergency appointment sought by the petitioner, including views about a proposed emergency conservator, the emergency conservator's proposed powers and duties, and the scope and duration of the proposed emergency conservatorship; and

(iii) Inform the adult respondent that all costs and expenses of the proceeding, including but not limited to the adult respondent's attorneys' fees, the appointed conservator's fees, and the appointed conservator's attorneys' fees, will be paid from the

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individual's assets upon approval by the court.

(e) The court visitor appointed under this section shall:

(i) Interview the petitioner and proposed emergency conservator;

(ii) Use due diligence to attempt to visit the adult respondent's present dwelling;

(iii) Use due diligence to attempt to obtain information from any physician or other person known to have treated, advised, or assessed the adult respondent's relevant physical or mental condition; and

(iv) Investigate the allegations in the emergency petition and any other matter relating to the emergency petition the court directs.

(f) A court visitor appointed under this section shall file a report in a record with the court and provide a copy of the report to the petitioner, the adult subject to the emergency conservatorship, and any notice party at least seven days prior to the hearing on the emergency petition, which must include:

(i) A recommendation regarding the appropriateness of emergency conservatorship, including whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available, and if an emergency conservatorship is recommended;

(ii) A detailed summary of the alleged emergency and the substantial and irreparable harm to the individual's property or finances that is likely to be prevented by the appointment of an emergency conservator;

(iii) A statement as to whether the alleged emergency and the respondent's alleged needs are likely to require an extension of sixty days as authorized under this section;

(iv) The specific powers to be granted to the emergency conservator and how the specific powers will address the alleged emergency and the respondent's alleged need;

(v) A recommendation regarding the appropriateness of an ongoing conservatorship for an individual, including whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;

(vi) A statement of the qualifications of the proposed emergency conservator and whether the respondent approves or disapproves of the proposed emergency conservator, and the reasons for such approval or disapproval;

(vii) A recommendation whether a professional evaluation under RCW 11.130.390 is necessary;

(viii) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(ix) A statement whether the respondent is able to participate in a hearing which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(x) Any other matter the court directs.

(11) An emergency conservator shall:

(a) Comply with the requirements of RCW 11.130.505 and the requirements of this chapter that pertain to the rights of an individual subject to conservatorship;

(b) Not have authority to make decisions or take actions that a conservator for an individual is prohibited by law from having; and

(c) Be subject to the same special limitations on a conservator's power that apply to a conservator for an individual.

(12) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under RCW 11.130.360.

((7)) (13) The court may remove an emergency conservator appointed under this section at any time.

(14) The emergency conservator shall file a report in a record with the court and provide a copy of the report to the individual subject to emergency conservatorship, and any notice party no later than forty-five days after appointment. The report shall include specific and updated information regarding the emergency alleged in the emergency petition, the individual's emergency needs, all actions and decisions by the emergency conservator, and a recommendation as to whether a conservator for an individual should be appointed. If the appointment of the emergency conservator is extended for an additional sixty days, the emergency conservator shall file a second report in a record with the court and provide a copy of the report to the individual subject to emergency conservatorship, and any notice party no later than forty-five days after the emergency conservatorship is extended by the court, which shall include the same information required for the first report. The emergency conservator shall make any other report the court requires.

(15) The court shall issue letters of emergency conservatorship to the emergency conservator in compliance with RCW 11.130.040.

Sec. 218. RCW 11.130.435 and 2019 c 437 s 414 are each amended to read as follows:

(1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under RCW 11.130.370(4) and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

(a) Make a gift, except a gift of de minimis value;

(b) Sell, encumber an interest in, or surrender a lease to the primary dwelling of the individual subject to conservatorship;

~~(c) Sell, or encumber an interest in, any other real estate;~~

~~(d) Convey, release, or disclaim a contingent or expectant interest in property, including marital property and any right of survivorship incident to joint tenancy or tenancy by the entireties;~~

~~((d)) (e) Exercise or release a power of appointment;~~

~~((e)) (f) Create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the individual subject to conservatorship;~~

~~((f)) (g) Exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value;~~

~~((g)) (h) Exercise a right to a quasi-community property share under RCW 26.16.230 or a right to an elective share under other law in the estate of a deceased spouse or domestic partner of the individual subject to conservatorship or renounce or disclaim a property interest;~~

~~((h)) (i) Grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under RCW 11.130.555(5);~~

~~((and~~
~~((i)) (j) Make, modify, amend, or revoke the will of the individual subject to conservatorship in compliance with chapter 11.12 RCW;~~

~~(k) Acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon property;~~

~~(l) Make ordinary or extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;~~

~~(m) Subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust~~

a difference in valuation of land, exchange or partition land by giving or receiving consideration, and dedicate an easement to public use without consideration;

(n) Enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term within or extending beyond the term of the conservatorship; and

(o) Structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties.

(2) In approving a conservator's exercise of a power listed in subsection (1) of this section, the court shall consider primarily the decision the individual subject to conservatorship would make if able, to the extent the decision can be ascertained.

(3) To determine under subsection (2) of this section the decision the individual subject to conservatorship would make if able, the court shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator. The court also shall consider:

(a) The financial needs of the individual subject to conservatorship and individuals who are in fact dependent on the individual subject to conservatorship for support, and the interests of creditors of the individual;

(b) Possible reduction of income, estate, inheritance, or other tax liabilities;

(c) Eligibility for governmental assistance;

(d) The previous pattern of giving or level of support provided by the individual;

(e) Any existing estate plan or lack of estate plan of the individual;

(f) The life expectancy of the individual and the probability the conservatorship will terminate before the individual's death; and

(g) Any other relevant factor.

(4) A conservator may not revoke or amend a power of attorney for finances executed by the individual subject to conservatorship. If a power of attorney for finances is in effect, a decision of the agent within the scope of the agent's authority takes precedence over that of the conservator, unless the court orders otherwise. The court has authority to revoke or amend any power of attorney executed by the adult.

Sec. 219. RCW 11.130.505 and 2019 c 437 s 418 are each amended to read as follows:

(1) A conservator is a fiduciary and has duties of prudence and loyalty to the individual subject to conservatorship.

(2) A conservator shall promote the self-determination of the individual subject to conservatorship and, to the extent feasible, encourage the individual to participate in decisions, act on the individual's own behalf, and develop or regain the capacity to manage the individual's personal affairs.

(3) In making a decision for an individual subject to conservatorship, the conservator shall make the decision the conservator reasonably believes the individual would make if able, unless doing so would fail to preserve the resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual. To determine the decision the individual would make if able, the conservator shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator.

(4) If a conservator cannot make a decision under subsection (3) of this section because the conservator does not know and cannot reasonably determine the decision the individual subject

to conservatorship probably would make if able, or the conservator reasonably believes the decision the individual would make would fail to preserve resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual, the conservator shall act in accordance with the best interests of the individual. In determining the best interests of the individual, the conservator shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the individual;

(b) Other information the conservator believes the individual would have considered if the individual were able to act; and

(c) Other factors a reasonable person in the circumstances of the individual would consider, including consequences for others.

(5) Except when inconsistent with the conservator's duties under subsections (1) through (4) of this section, a conservator shall invest and manage the conservatorship estate as a prudent investor would, by considering:

(a) The circumstances of the individual subject to conservatorship and the conservatorship estate;

(b) General economic conditions;

(c) The possible effect of inflation or deflation;

(d) The expected tax consequences of an investment decision or strategy;

(e) The role of each investment or course of action in relation to the conservatorship estate as a whole;

(f) The expected total return from income and appreciation of capital;

(g) The need for liquidity, regularity of income, and preservation or appreciation of capital; and

(h) The special relationship or value, if any, of specific property to the individual subject to conservatorship.

(6) The propriety of a conservator's investment and management of the conservatorship estate is determined in light of the facts and circumstances existing when the conservator decides or acts and not by hindsight.

(7) A conservator shall make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.

(8) A conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the conservator's duties.

(9) In investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the individual subject to conservatorship, a conservator shall consider any estate plan of the individual known or reasonably ascertainable to the conservator and may examine the will or other donative, nominative, or appointive instrument of the individual.

(10) A conservator shall maintain insurance on the insurable real and personal property of the individual subject to conservatorship, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds:

(a) The property lacks sufficient equity; or

(b) Insuring the property would unreasonably dissipate the conservatorship estate or otherwise not be in the best interest of the individual.

(11) If a power of attorney for finances is in effect, a conservator shall cooperate with the agent to the extent feasible.

(12) A conservator has access to and authority over a digital asset of the individual subject to conservatorship to the extent provided by the revised uniform fiduciary access to digital assets act (chapter 11.120 RCW) or court order.

(13) A conservator for an adult shall notify the court if the condition of the adult has changed so that the adult is capable of

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exercising rights previously removed. The notice must be given immediately on learning of the change.

(14) A conservator shall notify the court within thirty days of any substantial change in the value of the property of the person subject to conservatorship and shall provide a copy of the notice to the person subject to guardianship, a person entitled to notice under RCW ~~((11.130.370))~~ 11.130.420(6) or a subsequent court order, and any other person the court has determined is entitled to notice and schedule a hearing for the court to review the adequacy of the bond or other verified receipt under RCW 11.130.445 and 11.130.500.

Sec. 220. RCW 11.130.515 and 2019 c 437 s 420 are each amended to read as follows:

(1) Not later than ~~((sixty))~~ ninety days after appointment, a conservator shall prepare and file with the appointing court a detailed inventory of the conservatorship estate, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

(2) A conservator shall give notice of the filing of an inventory to the individual subject to conservatorship, a person entitled to notice under RCW 11.130.420(6) or a subsequent order, and any other person the court determines. The notice must be given not later than fourteen days after the filing.

(3) A conservator shall keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the individual subject to conservatorship, a guardian for the individual, or any other person the conservator or the court determines.

Sec. 221. RCW 11.130.520 and 2019 c 437 s 421 are each amended to read as follows:

(1) Except as otherwise provided in RCW 11.130.435 or qualified or limited in the court's order of appointment and stated in the letters of office, a conservator has all powers granted in this section and any additional power granted to a trustee by law of this state other than this chapter.

(2) A conservator, acting reasonably and consistent with the fiduciary duties of the conservator to accomplish the purpose of the conservatorship, without specific court authorization or confirmation, may with respect to the conservatorship estate:

(a) Collect, hold, and retain property, including property in which the conservator has a personal interest and real property in another state, until the conservator determines disposition of the property should be made;

(b) Receive additions to the conservatorship estate;

(c) Continue or participate in the operation of a business or other enterprise;

(d) Acquire an undivided interest in property in which the conservator, in a fiduciary capacity, holds an undivided interest;

(e) Invest assets;

(f) Deposit funds or other property in a financial institution, including one operated by the conservator;

~~(g) ((Acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon property;~~

~~(h) Make ordinary or extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;~~

~~(i) Subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition land by giving or receiving consideration, and dedicate an easement to public use without consideration;~~

~~(j) Enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term~~

~~within or extending beyond the term of the conservatorship;~~

~~((k))~~ Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or a pooling or unitization agreement;

~~((H))~~ (h) Grant an option involving disposition of property or accept or exercise an option for the acquisition of property;

~~((m))~~ (i) Vote a security, in person or by general or limited proxy;

~~((n))~~ (j) Pay a call, assessment, or other sum chargeable or accruing against or on account of a security;

~~((o))~~ (k) Sell or exercise a stock subscription or conversion right;

~~((p))~~ (l) Consent, directly or through a committee or agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

~~((q))~~ (m) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery;

~~((r))~~ (n) Insure:

(i) The conservatorship estate, in whole or in part, against damage or loss in accordance with RCW 11.130.505(10); and

(ii) The conservator against liability with respect to a third person;

~~((s))~~ (o) Borrow funds, with or without security, to be repaid from the conservatorship estate or otherwise;

~~((t))~~ (p) Advance funds for the protection of the conservatorship estate or the individual subject to conservatorship and all expenses, losses, and liability sustained in the administration of the conservatorship estate or because of holding any property for which the conservator has a lien on the conservatorship estate;

~~((u))~~ (q) Pay or contest a claim, settle a claim by or against the conservatorship estate or the individual subject to conservatorship by compromise, arbitration, or otherwise, or release, in whole or in part, a claim belonging to the conservatorship estate to the extent the claim is uncollectible;

~~((v))~~ (r) Pay a tax, assessment, compensation of the conservator or any guardian, and other expense incurred in the collection, care, administration, and protection of the conservatorship estate;

~~((w))~~ (s) Pay a sum distributable to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship by paying the sum to the distributee or for the use of the distributee:

(i) To the guardian for the distributee;

(ii) To the custodian of the distributee under the uniform transfers to minors act (chapter 11.114 RCW); or

(iii) If there is no guardian, custodian, or custodial trustee, to a relative or other person having physical custody of the distributee;

~~((x))~~ (t) Bring or defend an action, claim, or proceeding in any jurisdiction for the protection of the conservatorship estate or the conservator in the performance of the conservator's duties; and

~~((y)) Structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit, including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties; and~~

~~((z))~~ (u) Execute and deliver any instrument that will accomplish or facilitate the exercise of a power of the conservator.

Sec. 222. RCW 11.130.530 and 2019 c 437 s 423 are each amended to read as follows:

(1) A conservator shall file with the court by the date

established by the court a report in a record regarding the administration of the conservatorship estate unless the court otherwise directs, on resignation or removal, on termination of the conservatorship, and at any other time the court directs.

(2) A report under subsection (1) of this section must state or contain:

(a) An accounting that lists property included in the conservatorship estate and the receipts, disbursements, liabilities, and distributions during the period for which the report is made;

(b) A list of the services provided to the individual subject to conservatorship;

(c) A copy of the conservator's most recently approved plan and a statement whether the conservator has deviated from the plan and, if so, how the conservator has deviated and why;

(d) A recommendation as to the need for continued conservatorship and any recommended change in the scope of the conservatorship;

(e) To the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts, and mortgages or other debts of the individual subject to conservatorship with all but the last four digits of the account numbers and social security number redacted;

(f) Anything of more than de minimis value which the conservator, any individual who resides with the conservator, or the spouse, domestic partner, parent, child, or sibling of the conservator has received from a person providing goods or services to the individual subject to conservatorship;

(g) Any business relation the conservator has with a person the conservator has paid or that has benefited from the property of the individual subject to conservatorship; and

(h) Whether any co-conservator or successor conservator appointed to serve when a designated event occurs is alive and able to serve.

(3) The court may appoint a court visitor to review a report under this section or conservator's plan under RCW 11.130.510, interview the individual subject to conservatorship or conservator, or investigate any other matter involving the conservatorship. In connection with the report, the court may order the conservator to submit the conservatorship estate to appropriate examination in a manner the court directs.

(4) Notice of the filing under this section of a conservator's report, together with a copy of the report, must be provided to the individual subject to conservatorship, a person entitled to notice under RCW 11.130.420(6) or a subsequent order, and other persons the court determines. The notice and report must be given not later than fourteen days after filing.

(5) The court shall establish procedures for monitoring a report submitted under this section and review each report at least annually to determine whether:

(a) The reports provide sufficient information to establish the conservator has complied with the conservator's duties;

(b) The conservatorship should continue; and

(c) The conservator's requested fees, if any, should be approved.

(6) If the court determines there is reason to believe a conservator has not complied with the conservator's duties or the conservatorship should not continue, the court:

(a) Shall notify the individual subject to conservatorship, the conservator, and any other person entitled to notice under RCW 11.130.420(6) or a subsequent order;

(b) May require additional information from the conservator;

(c) May appoint a court visitor to interview the individual subject to conservatorship or conservator or investigate any matter involving the conservatorship; and

(d) Consistent with RCW 11.130.565 and 11.130.570, may

hold a hearing to consider removal of the conservator, termination of the conservatorship, or a change in the powers granted to the conservator or terms of the conservatorship.

(7) If the court has reason to believe fees requested by a conservator are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

(8) A conservator must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(9) An order, after notice and hearing, approving an interim report of a conservator filed under this section adjudicates liabilities concerning a matter adequately disclosed in the report, as to a person given notice of the report or accounting.

(10) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review at annual, biennial, or triennial intervals with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the conservator has been serving the person under conservatorship; whether the conservator has timely filed all required reports with the court; whether the conservator is monitored by other state or local agencies; the income of the person subject to conservatorship; the value of the property of the person subject to conservatorship; the adequacy of the bond and other verified receipt; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the conservator.

(11) If the court approves a report filed under this section, the order approving the report shall contain a conservatorship summary or accompanied by a conservatorship summary in the form or substantially in the same form as set forth in RCW 11.130.665.

(12) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in RCW 11.130.660 to the conservator containing an expiration date which will be within one hundred ~~((twenty))~~ eighty days after the date the court directs the conservator file its next report.

(13) An order, after notice and hearing, approving a final report filed under this section discharges the conservator from all liabilities, claims, and causes of action by a person given notice of the report and the hearing as to a matter adequately disclosed in the report.

(14) Any requirement to establish a monitoring program under this section is subject to appropriation.

Sec. 223. RCW 11.130.550 and 2019 c 437 s 427 are each amended to read as follows:

(1) ~~((If an individual subject to conservatorship dies, the conservator shall deliver))~~ Upon the death of an individual subject to conservatorship, a conservator shall:

(a) Have authority to disburse or commit those funds under the control of the conservator as are prudent and within the means of the estate for the disposition of the deceased individual subject to conservatorship's remains. Consent for such arrangement must be secured according to RCW 68.50.160. If no person authorized by RCW 68.50.160 accepts responsibility for giving consent, the conservator may consent, subject to the provisions of this section and to the known directives of the deceased individual subject to conservatorship. Reasonable financial commitments made by a conservator pursuant to this section are binding against the estate of the deceased individual subject to conservatorship;

(b) Deliver to the court for safekeeping any will of the

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individual in the conservator's possession and inform the personal representative named in the will if feasible, or if not feasible, a beneficiary named in the will, of the delivery.

(2) If forty days after the death of an individual subject to conservatorship no personal representative has been appointed and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative to administer and distribute the decedent's estate. The conservator shall give notice of his or her appointment and the pendency of any probate proceedings as provided in RCW 11.28.237 and shall also give notice to a person nominated as personal representative by a will of the decedent of which the conservator is aware. The court may grant the application if there is no objection and endorse the letters of office to note that the individual formerly subject to conservatorship is deceased and the conservator has acquired the powers and duties of a personal representative.

(3) On the death of an individual subject to conservatorship, the conservator shall conclude the administration of the conservatorship estate as provided in RCW 11.130.570.

NEW SECTION. Sec. 224. A new section is added to chapter 11.130 RCW to read as follows:

CONSERVATOR ACCESS TO CERTAIN HELD ASSETS.

(1) For purposes of this section, "institution" means all financial institutions as defined in RCW 30A.22.041, all insurance companies holding a certificate of authority under chapter 48.05 RCW, or any agent who constitutes a salesperson or broker-dealer of securities under the definitions of RCW 21.20.005, individually and collectively.

(2) Institutions shall provide the conservator access and control over the assets described in (a)(vii) of this subsection, including but not limited to delivery of the asset to the conservator, upon receipt of the following:

(a) An affidavit containing as an attachment a true and correct copy of the conservator's letters of conservatorship and stating:

(i) That as of the date of the affidavit, the affiant is a duly appointed conservator with authority over assets held by the institution but owned or subject to withdrawal or delivery to a client or depositor of the institution;

(ii) The cause number of the conservatorship;

(iii) The name of the person under conservatorship and the name of the client or depositor, which names must be the same;

(iv) The account or the safety deposit box number or numbers;

(v) The address of the client or depositor;

(vi) The name and address of the affiant-conservator being provided assets or access to assets;

(vii) A description of and the value of the asset or assets, or, where the value cannot be readily ascertained, a reasonable estimate thereof, and a statement that the conservator receives delivery or control of each asset solely in its capacity as conservator;

(viii) The date the conservator assumed control over the assets; and

(ix) That a true and correct copy of the letters of conservatorship duly issued by a court to the conservator is attached to the affidavit; and

(b) An envelope, with postage prepaid, addressed to the clerk of the court issuing the letters of conservatorship. The affidavit must be sent in the envelope by the institution to the clerk of the court together with a statement signed by an agent of the institution that the description of the asset set forth in the affidavit appears to be accurate, and confirming in the case of cash assets, the value of the asset.

(3) Any conservator provided with access to a safe deposit box pursuant to subsection (1) of this section shall make an inventory

of the contents of the box and attach this inventory to the affidavit before the affidavit is sent to the clerk of the court and before the contents of the box are released to the conservator. Any inventory must be prepared in the presence of an employee of the institution and the statement of the institution required under subsection (1) of this section must include a statement executed by the employee that the inventory appears to be accurate. The institution may require payment by the conservator of any fees or charges then due in connection with the asset or account and of a reasonable fee for witnessing preparation of the inventory and preparing the statement required by this subsection or subsection (1) of this section.

(4) Any institution to which an affidavit complying with subsection (1) of this section is submitted may rely on the affidavit without inquiry and is not subject to any liability of any nature whatsoever to any person whatsoever, including but not limited to the institution's client or depositor or any other person with an ownership or other interest in or right to the asset, for the reliance or for providing the conservator access and control over the asset, including but not limited to delivery of the asset to the conservator.

Sec. 225. RCW 11.130.670 and 2019 c 437 s 701 are each amended to read as follows:

(1) The certified professional guardianship board must resolve grievances against professional guardians and/or conservators within a reasonable time for alleged violations of the certified professional guardianship board's standards of practice, statutes, regulations, or rules, that relate to the conduct of a certified professional guardian or conservator.

(a) All grievances must initially be reviewed within thirty days by certified professional guardianship board members, or a subset thereof, to determine if the grievance is complete, states facts that ~~((allege))~~ describe a violation of the standards of practice, statutes, regulations, or rules, and relates to the conduct of a professional guardian and/or conservator, before ~~((any investigation or))~~ investigating, requesting a response ((is requested)) from the professional guardian or conservator, or forwarding to the superior courts. ((Grievances)) To be complete, grievances must provide sufficient details of the alleged conduct to demonstrate that a violation of the statute, regulation, standard of practice, or rule, relating to the conduct of a certified professional guardian or conservator could have occurred, the dates ~~((of))~~ the alleged ((violations)) conduct occurred, and must be signed and dated by the person filing the grievance. Grievance investigations by the board are limited to the allegations contained in the grievance unless, after review by a majority of the members of the certified professional guardianship board, further investigation is justified.

(b) If the certified professional guardianship board determines the grievance is complete, states facts that allege a violation of the certified professional guardianship board's standards of practice, and relates to the conduct of a professional guardian and/or conservator, the certified professional guardianship board must forward that grievance within ten days to the superior court for that guardianship or conservatorship and to the professional guardian and/or conservator. The court must review the matter as set forth in RCW 11.130.140, and must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board. The certified professional guardianship board must accept as facts any finding of fact contained in the order. The certified professional guardianship board must act consistently with any finding of fact issued in that order.

(2) Grievances received by the certified professional guardianship board must be ~~((resolved))~~ investigated and the

resolution determined and in process within one hundred eighty days of receipt. The one hundred eighty days is tolled during any period of time when:

(a) The certified professional guardianship board has provided a certified professional guardian or conservator an opportunity to respond to a grievance against the certified professional guardian or conservator and the certified professional guardianship board is awaiting the certified professional guardian or conservator's response;

(b) The certified professional guardianship board has forwarded a grievance to the superior court for review under subsection (1)(b) of this section and is awaiting receipt of the court's entered order with findings; or

(c) A certified professional guardianship board disciplinary hearing has been requested or is in process and during the time of posthearing board review of the hearing officer's recommendations through issuance of a final certified professional guardianship board's order on the matter.

(3) If the grievance cannot be resolved within one hundred eighty days, the certified professional guardianship board must notify the professional guardian and/or conservator. The professional guardian or conservator may propose a resolution of the grievance with facts and/or arguments. The certified professional guardianship board may accept the proposed resolution or determine that an additional ninety days are needed to review the grievance. If the certified professional guardianship board has not resolved the grievance within the additional ninety days the professional guardian or conservator may:

(a) File a motion for a court order to compel the certified professional guardianship board to resolve the grievance within a reasonable time; or

(b) Move for the superior court to resolve the grievance instead of being resolved by the certified professional guardianship board.

(4) The superior court has authority to enforce the certified professional guardianship board's standards of practice in this article to the extent those standards are related to statutory or fiduciary duties of guardians and conservators.

(5) Any unresolved grievances filed with the certified professional guardianship board ~~((at the time of))~~ one year or more before January 1, 2021, must be forwarded to the superior court for that guardianship or conservatorship for review by the superior court as set forth in RCW 11.130.140 if the grievance is not in process of a hearing or final resolution.

NEW SECTION. Sec. 226. A new section is added to chapter 11.130 RCW to read as follows:

For the purposes of this chapter, an adult is presumed to have legal capacity.

PART III OTHER PROVISIONS

Sec. 301. RCW 11.130.010 and 2019 c 437 s 102 are each amended to read as follows:

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

(1) "Adult" means an individual at least eighteen years of age or an emancipated individual under eighteen years of age.

(2) "Adult subject to conservatorship" means an adult for whom a conservator has been appointed under this chapter.

(3) "Adult subject to guardianship" means an adult for whom a guardian has been appointed under this chapter.

(4) "Claim" includes a claim against an individual or conservatorship estate, whether arising in contract, tort, or otherwise.

(5) "Conservator" means a person appointed by a court to make decisions with respect to the property or financial affairs of an individual subject to conservatorship. The term includes a co-

conservator.

(6) "Conservatorship estate" means the property subject to conservatorship under this chapter.

(7) "Court visitor" means the person appointed by the court pursuant to this chapter.

(8) "Evaluation and treatment facility" has the same meaning as provided in RCW 71.05.020.

~~((8))~~ (9) "Full conservatorship" means a conservatorship that grants the conservator all powers available under this chapter.

~~((9))~~ (10) "Full guardianship" means a guardianship that grants the guardian all powers available under this chapter.

~~((40))~~ (11) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs of an individual. The term includes a co-guardian but does not include a guardian ad litem.

~~((41))~~ (12) "Guardian ad litem" means a person appointed to inform the court about, and to represent, the needs and best interests of ~~((an individual))~~ a minor.

~~((42))~~ (13) "Individual subject to conservatorship" means an adult or minor for whom a conservator has been appointed under this chapter.

~~((43))~~ (14) "Individual subject to guardianship" means an adult or minor for whom a guardian has been appointed under this chapter.

~~((44))~~ (15) "Less restrictive alternative" means an approach to meeting an individual's needs which restricts fewer rights of the individual than would the appointment of a guardian or conservator. The term includes supported decision making, appropriate technological assistance, appointment of a representative payee, and appointment of an agent by the individual, including appointment under a power of attorney for health care or power of attorney for finances.

~~((45))~~ (16) "Letters of office" means a record issued by a court certifying a guardian's or conservator's authority to act.

~~((46))~~ (17) "Limited conservatorship" means a conservatorship that grants the conservator less than all powers available under this chapter, grants powers over only certain property, or otherwise restricts the powers of the conservator.

~~((47))~~ (18) "Limited guardianship" means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

~~((48))~~ (19) "Long-term care facility" has the same meaning as provided in RCW 70.129.010.

~~((49))~~ (20) "Minor" means an unemancipated individual under eighteen years of age.

~~((20))~~ (21) "Minor subject to conservatorship" means a minor for whom a conservator has been appointed under this chapter.

~~((21))~~ (22) "Minor subject to guardianship" means a minor for whom a guardian has been appointed under this chapter.

~~((22))~~ (23) "Notice party" means a person entitled to notice under this chapter or otherwise determined by the court to be entitled to notice.

(24) "Parent" does not include an individual whose parental rights have been terminated.

~~((23))~~ (25) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

~~((24))~~ (26) "Professional guardian or conservator" means a guardian or conservator appointed under this chapter who is not a relative of the person subject to guardianship or conservatorship established under this chapter and who charges fees for carrying out the duties of court-appointed guardian or conservator for three or more persons.

~~((25))~~ (27) "Property" includes tangible and intangible property.

~~((26))~~ (28) "Protective arrangement instead of

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conservatorship" means a court order entered under RCW 11.130.590.

~~((27))~~ (29) "Protective arrangement instead of guardianship" means a court order entered under RCW 11.130.585.

~~((28))~~ (30) "Protective arrangement under Article 5 of this chapter" means a court order entered under RCW 11.130.585 or 11.130.590.

~~((29))~~ (31) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~((30))~~ (32) "Relative" means any person related by blood or by law to the person subject to guardianship, conservatorship, or other protective arrangements.

~~((31))~~ (33) "Respondent" means an individual for whom appointment of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought.

~~((32))~~ (34) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

~~((33))~~ (35) "Special agent" means the person appointed by the court pursuant to RCW 11.130.375 or 11.130.635.

~~((34))~~ (36) "Standby guardian" means a person appointed by the court under RCW 11.130.220.

~~((35))~~ (37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

~~((36))~~ (38) "Supported decision making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual's wishes.

~~((37))~~ (39) "Verified receipt" is a verified receipt signed by the custodian of funds stating that a savings and loan association or bank, trust company, escrow corporation, or other corporations approved by the court hold the cash or securities of the individual subject to conservatorship subject to withdrawal only by order of the court.

~~((38))~~ (40) "Visitor" means ~~((the person appointed by the court pursuant to RCW 11.130.280(1) or 11.130.380(1)))~~ a court visitor.

Sec. 302. RCW 11.130.035 and 2019 c 437 s 107 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the rules of evidence and civil procedure, including rules concerning appellate review, govern a proceeding under this chapter.

(2) If proceedings for a guardianship, conservatorship, or protective arrangement under Article 5 of this chapter for the same individual are commenced or pending in the same court, the proceedings may be consolidated.

(3) ~~((A))~~ An adult respondent may demand a jury trial in a proceeding under this chapter on the issue ~~((whether a basis exists for appointment of a guardian or conservator))~~ of whether a basis exists for the appointment of a guardian under RCW 11.130.265 or a conservator under RCW 11.130.360(2) and on the rights to be retained or restricted if a guardian or conservator is appointed.

(4) Upon the motion of the respondent or the court visitor, prior to the appointment of a guardian or a conservator or the establishment of a protective arrangement for an adult, or upon the motion of the respondent, guardian, conservator, or any notice party subsequent to such appointment, whenever it appears that

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the adult respondent could benefit from mediation, the court may require the petitioner, adult respondent, guardian, conservator, and any notice party to participate in mediation pursuant to RCW 11.96A.300.

Sec. 303. RCW 11.130.040 and 2019 c 437 s 108 are each amended to read as follows:

(1) The court shall issue letters of guardianship to a guardian on filing by the guardian of an acceptance of appointment.

(2) The court shall issue letters of conservatorship to a conservator on filing by the conservator of an acceptance of appointment and filing of any required bond or compliance with any other verified receipt required by the court.

(3) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be ~~((stated on the letters of office))~~ included on the form prescribed by RCW 11.130.660.

(4) The court at any time may limit the powers conferred on a guardian or conservator. The court shall issue new letters of office to reflect the limitation.

(5) A guardian or conservator may not act on behalf of a person under guardianship or conservatorship without valid letters of office.

(6) The clerk of the superior court shall issue letters of guardianship or conservatorship in or substantially in the same form as set forth in RCW 11.130.660.

(7) Letters of office issued to a guardian or conservator who is a nonresident of this state must include the name and contact information for the resident agent of the guardian or conservator, appointed pursuant to RCW 11.130.090(1)(c).

(8) This chapter does not affect the validity of letters of office issued under chapter 11.88 RCW prior to January 1, 2021.

Sec. 304. RCW 11.130.100 and 2019 c 437 s 120 are each amended to read as follows:

(1) Unless otherwise compensated or reimbursed, an attorney for a respondent in a proceeding under this chapter is entitled to reasonable compensation for services and reimbursement of reasonable expenses from the property of the respondent.

(2) Unless otherwise compensated or reimbursed, an attorney or other person whose services resulted in an order beneficial to an individual subject to guardianship or conservatorship or for whom a protective arrangement under Article 5 of this chapter was ordered is entitled to reasonable compensation for services and reimbursement of reasonable expenses from the property of the individual.

~~((The court must approve compensation and expenses payable under this section before payment. Approval is not required before a service is provided or an expense is incurred.~~

~~((4) If the court dismisses a petition under this chapter and determines the petition was filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or visitor against the petitioner.~~

~~((5))~~ Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

~~((6))~~ (4) Where the person subject to guardianship or conservatorship receives guardianship, conservatorships, or other protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

~~((7))~~ (5) The court must approve compensation and expenses

payable under this section before payment. Approval is not required before a service is provided or an expense is incurred.

~~((8))~~ (6) If the court dismisses a petition under this chapter and determines the petition was filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or court visitor against the petitioner.

Sec. 305. RCW 11.130.105 and 2019 c 437 s 121 are each amended to read as follows:

(1) Subject to court approval, a guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, clothing, and other appropriate expenses advanced for the benefit of the individual subject to guardianship. ~~(If a conservator, other than the guardian or a person affiliated with the guardian, is appointed for the individual, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without court approval.)~~ The court shall determine if the fees charged by a guardian and conservator are just and reasonable.

(2) Subject to court approval, a conservator is entitled to reasonable compensation for services and reimbursement for appropriate expenses from the property of the individual subject to conservatorship.

(3) In determining reasonable compensation for a guardian or conservator, the court, or a conservator in determining reasonable compensation for a guardian as provided in subsection (1) of this section, shall approve compensation that shall not exceed the typical amounts paid for comparable services in the community, at a rate for which the service can be performed in the most efficient and cost-effective manner, considering:

- (a) The necessity and quality of the services provided;
- (b) The experience, training, professional standing, and skills of the guardian or conservator;
- (c) The difficulty of the services performed, including the degree of skill and care required;
- (d) The conditions and circumstances under which a service was performed, including whether the service was provided outside regular business hours or under dangerous or extraordinary conditions;
- (e) The effect of the services on the individual subject to guardianship or conservatorship;
- (f) The extent to which the services provided were or were not consistent with the guardian's plan under RCW 11.130.340 or conservator's plan under RCW 11.130.510; and
- (g) The fees customarily paid to a person that performs a like service in the community.

(4) A guardian or conservator need not use personal funds of the guardian or conservator for the expenses of the individual subject to guardianship or conservatorship.

(5) Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

(6) Where the person subject to guardianship or conservatorship receives guardianship, conservatorship, or other protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

(7) If an individual subject to guardianship or conservatorship seeks to modify or terminate the guardianship or conservatorship or remove the guardian or conservator, the court may order compensation to the guardian or conservator for time spent opposing modification, termination, or removal only to the extent

the court determines the opposition was reasonably necessary to protect the interests of the individual subject to guardianship or conservatorship.

Sec. 306. RCW 11.130.115 and 2019 c 437 s 123 are each amended to read as follows:

(1) A guardian or conservator may petition the court for instruction concerning fiduciary responsibility or ratification of a particular act related to the guardianship or conservatorship.

(2) ~~(On reasonable notice and hearing on)~~ Fourteen days after notice of a petition under subsection (1) of this section, the court may give an instruction and issue an appropriate order.

(3) The petitioner must provide reasonable notice of the petition and hearing to the individual subject to a guardianship or conservatorship and any notice party.

Sec. 307. RCW 11.130.140 and 2019 c 437 s 128 are each amended to read as follows:

(1) An individual who is subject to guardianship or conservatorship, or person interested in the welfare of an individual subject to guardianship or conservatorship, that reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a grievance in a record with the court.

(2)(a) An unrepresented person or entity may submit a complaint to the court. Complaints must be addressed to one of the following designees of the court: The clerk of the court having jurisdiction in the guardianship, the court administrator, or the guardianship monitoring program, and must identify the complainant and the person who is the subject of the guardianship or conservatorship. The complaint must also provide the complainant's address, the case number (if available), and the address of the person subject to a guardianship or conservatorship (if available). The complaint must state facts to support the claim.

(b) By the next judicial day after receipt of a complaint from an unrepresented person, the court's designee must ensure the original complaint is filed and deliver the complaint to the court.

(c) Within fourteen days of being presented with a complaint, the court must enter an order to do one or more of the following actions:

(i) To show cause, with fourteen days' notice, directing the guardian or conservator to appear at a hearing set by the court in order to respond to the complaint;

(ii) To appoint a court visitor or other court representative to investigate the issues raised by the complaint or to take any emergency action the court deems necessary to protect the person subject to a guardianship or conservatorship until a hearing can be held;

(iii) To dismiss the complaint without scheduling a hearing, if it appears to the court that the complaint: Is without merit on its face; is filed in other than good faith; is filed for an improper purpose; regards issues that have already been adjudicated; or is frivolous. In making a determination, the court may review the matter and consider previous behavior of the complainant that is documented in the guardianship or conservatorship record;

(iv) To direct the guardian or conservator to provide, in not less than fourteen days, a written report to the court on the issues raised in the complaint;

(v) To defer consideration of the complaint until the next regularly scheduled hearing in the guardianship or conservatorship, if the date of that hearing is within the next three months, provided that there is no indication that the person subject to a guardianship or conservatorship will suffer physical, emotional, financial, or other harm as a result of the court's deferral of consideration;

(vi) To order other action, in the court's discretion, in addition to doing one or more of the actions set out in this subsection.

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~~(3)~~ Subject to subsection ~~((3))~~ (4) of this section, after receiving a grievance under subsection (1) of this section, the court:

(a) Shall promptly review the grievance against a guardian and shall act to protect the autonomy, values, preferences, and independence of the individual subject to guardianship or conservatorship;

(b) Shall schedule a hearing if the individual subject to guardianship or conservatorship is an adult and the grievance supports a reasonable belief that:

(i) Removal of the guardian and appointment of a successor may be appropriate under RCW 11.130.350;

(ii) Termination or modification of the guardianship may be appropriate under RCW 11.130.355;

(iii) Removal of the conservator and appointment of a successor may be appropriate under RCW 11.130.565;

(iv) Termination or modification of the conservatorship may be appropriate under RCW 11.130.570; or

(v) A hearing is necessary to resolve the allegations set forth in the grievance; and

(c) May take any action supported by the evidence, including:

(i) Ordering the guardian or conservator to provide the court a report, accounting, inventory, updated plan, or other information;

(ii) Appointing a ~~((guardian ad litem))~~ court visitor;

(iii) Appointing an attorney for the individual subject to guardianship or conservatorship; or

(iv) Holding a hearing.

~~((3))~~ (4) The court may decline to act under subsection ~~((2))~~ (3) of this section if a similar grievance was filed within the six months preceding the filing of the current grievance and the court followed the procedures of subsection ~~((2))~~ (3) of this section in considering the earlier grievance; and may levy necessary sanctions, including but not limited to the imposition of reasonable attorney fees, costs, striking pleadings, or other appropriate relief, if after consideration the court finds that the grievance is made for reason to harass, delay, with malice, or other bad faith.

~~((4))~~ (5) In any court action under this section where the court finds the professional guardian or conservator breached a fiduciary duty, the court must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board.

~~((5))~~ (6) A court shall not dismiss a grievance that has been filed against a guardian or conservator due to an inability to resolve the grievance in a timely manner.

Sec. 308. RCW 11.130.265 and 2019 c 437 s 301 are each amended to read as follows:

(1) On petition and after notice and hearing, the court may:

(a) Appoint a guardian for an adult if the court finds by clear and convincing evidence that:

(i) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; ~~((and))~~

(ii) Appointment is necessary to prevent significant risk of harm to the adult respondent's physical health, safety, or self-care; and

(iii) The respondent's identified needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative; or

(b) With appropriate findings, treat the petition as one for a conservatorship under Article 4 of this chapter or protective arrangement under Article 5 of this chapter, issue any appropriate

order, or dismiss the proceeding.

(2) The court shall grant a guardian appointed under subsection (1) of this section only those powers necessitated by the demonstrated needs and limitations of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full guardianship if a limited guardianship, protective arrangement instead of guardianship, or other less restrictive alternative would meet the needs of the respondent.

(3) A determination by the court that a basis exists under subsection (1) of this section for the appointment of a guardian and on the issue of the rights that will be retained or restricted by the appointment of a guardian is a legal decision, not a medical decision. The determination must be based on a demonstration of management insufficiencies over time in the area of physical health, safety, or self-care. Age, eccentricity, poverty, or medical diagnosis alone are not sufficient basis under subsection (1) of this section to justify a determination that a guardian should be appointed for the respondent.

Sec. 309. RCW 11.130.280 and 2019 c 437 s 304 are each amended to read as follows:

(1) On receipt of a petition under RCW 11.130.270 for appointment of a guardian for an adult, the court shall appoint a court visitor. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) The court, in the order appointing a court visitor, shall specify the hourly rate the court visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval. The fee shall be charged to the person subject to a guardianship or conservatorship proceeding unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs; PROVIDED, That the court may charge such fee to the petitioner, the person subject to a guardianship or conservatorship proceeding, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the court visitor fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(3)(a) The court visitor appointed under subsection (1) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under RCW 11.130.080 with a statement including: His or her training relating to the duties as a court visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the court visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the court visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the court visitor should not be removed for one of the following three reasons:

(i) Lack of expertise necessary for the proceeding;

(ii) An hourly rate higher than what is reasonable for the particular proceeding; or

(iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the court visitor and all parties. If, after a hearing, the court enters an order

replacing the court visitor, findings shall be included, expressly stating the reasons for the removal. If the court visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(4) A court visitor appointed under subsection (1) of this section shall interview the respondent in person and, in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the general powers and duties of a guardian;

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed guardian, the guardian's proposed powers and duties, and the scope and duration of the proposed guardianship; and

(c) Inform the respondent that all costs and expenses of the proceeding, including the respondent's attorney's fees, may be paid from the respondent's assets.

(5) The court visitor appointed under subsection (1) of this section shall:

(a) Interview the petitioner and proposed guardian, if any;

(b) Visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the appointment is made;

(c) Obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition; and

(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(6) A court visitor appointed under subsection (1) of this section shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under RCW 11.130.080 at least fifteen days prior to the hearing on the petition filed under RCW 11.130.270, which must include:

(a) A summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making, and cannot manage;

(b) A recommendation regarding the appropriateness of guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available and:

(i) If a guardianship is recommended, whether it should be full or limited; and

(ii) If a limited guardianship is recommended, the powers to be granted to the guardian;

(c) A statement of the qualifications of the proposed guardian and whether the respondent approves or disapproves of the proposed guardian;

(d) A statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to residence;

(e) A ~~((recommendation whether))~~ statement whether the respondent declined a professional evaluation under RCW 11.130.290 ((is necessary)) and what other information is available to determine the respondent's needs and abilities without the professional evaluation;

(f) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(g) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(h) Any other matter the court directs.

(7) The appointment of a court visitor has no effect on the determination of the adult respondent's legal capacity and does not overcome the presumption of legal capacity or full legal and civil rights of the adult respondent.

Sec. 310. RCW 11.130.380 and 2019 c 437 s 405 are each amended to read as follows:

(1) If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a court visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(2) If the respondent in a proceeding to appoint a conservator is an adult, the court shall appoint a court visitor. The duties and reporting requirements of the court visitor are limited to the relief requested in the petition. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(3) The court, in the order appointing court visitor, shall specify the hourly rate the court visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval. The fee shall be charged to the person subject to a guardianship or conservatorship proceeding unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That the court may charge such fee to the petitioner, the person subject to a guardianship or conservatorship proceeding, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the court visitor fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(4)(a) The court visitor appointed under subsection (1) or (2) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under RCW 11.130.080 with a statement including: His or her training relating to the duties as a court visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the ~~((guardian ad litem))~~ court visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the court visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the court visitor should not be removed for one of the following three reasons:

(i) Lack of expertise necessary for the proceeding;

(ii) An hourly rate higher than what is reasonable for the particular proceeding; or

(iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the court visitor and all parties. If, after a hearing, the court enters an order replacing the court visitor, findings shall be included, expressly stating the reasons for the removal. If the court visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(5) A court visitor appointed under subsection (2) of this section for an adult shall interview the respondent in person and in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's

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rights at the hearing on the petition, and the general powers and duties of a conservator;

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties, and the scope and duration of the proposed conservatorship; and

(c) Inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys' fees, may be paid from the respondent's assets.

(6) A court visitor appointed under subsection (2) of this section for an adult shall:

(a) Interview the petitioner and proposed conservator, if any;

(b) Review financial records of the respondent, if relevant to the court visitor's recommendation under subsection (7)(b) of this section;

(c) Investigate whether the respondent's needs could be met by a protective arrangement instead of conservatorship or other less restrictive alternative and, if so, identify the arrangement or other less restrictive alternative; and

(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(7) A court visitor appointed under subsection (2) of this section for an adult shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under RCW 11.130.080 at least fifteen days prior to the hearing on the petition filed under RCW 11.130.365, which must include:

(a) A recommendation:

(i) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;

(ii) If a conservatorship is recommended, whether it should be full or limited;

(iii) If a limited conservatorship is recommended, the powers to be granted to the conservator, and the property that should be placed under the conservator's control; and

(iv) If a conservatorship is recommended, the amount of the bond or other verified receipt needed under RCW 11.130.445 and 11.130.500;

(b) A statement of the qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;

(c) A ~~((recommendation whether))~~ statement whether the respondent declined a professional evaluation under RCW 11.130.390 ((is necessary)) and what other information is available to determine the respondent's needs and abilities without the professional evaluation;

(d) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(e) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(f) Any other matter the court directs.

(8) The appointment of a court visitor has no effect on the determination of the adult respondent's legal capacity and does not overcome the presumption of legal capacity or full legal and civil rights of the adult respondent.

Sec. 311. RCW 11.130.605 and 2019 c 437 s 506 are each amended to read as follows:

(1) On filing of a petition under RCW 11.130.580 for a protective arrangement instead of guardianship, the court shall appoint a court visitor. The court visitor must be an individual with training or experience in the type of abilities, limitations, and

needs alleged in the petition.

(2) On filing of a petition under RCW 11.130.580 for a protective arrangement instead of conservatorship for a minor, the court may appoint a court visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(3) On filing of a petition under RCW 11.130.580 or a protective arrangement instead of conservatorship for an adult, the court shall appoint a court visitor unless the respondent is represented by an attorney appointed by the court. The court visitor must be an individual with training or experience in the types of abilities, limitations, and needs alleged in the petition.

(4) The court, in the order appointing a court visitor, shall specify the hourly rate the court visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval. The fee shall be charged to the person subject to a guardianship, conservatorship, or other protective arrangement proceeding unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That the court may charge such fee to the petitioner, the person subject to a guardianship or conservatorship proceeding, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the court visitor fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(5)(a) The court visitor appointed under subsection (1) or (3) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under RCW 11.130.080 with a statement including: His or her training relating to the duties as a court visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the ~~((guardian ad litem))~~ court visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the court visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the court visitor should not be removed for one of the following three reasons:

(i) Lack of expertise necessary for the proceeding;

(ii) An hourly rate higher than what is reasonable for the particular proceeding; or

(iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the court visitor and all parties. If, after a hearing, the court enters an order replacing the court visitor, findings shall be included, expressly stating the reasons for the removal. If the court visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(6) A court visitor appointed under subsection (1) or (3) of this section shall interview the respondent in person and in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, and the respondent's rights at the hearing on the petition;

(b) Determine the respondent's views with respect to the order sought;

(c) Inform the respondent that all costs and expenses of the

proceeding, including respondent's attorneys' fees, may be paid from the respondent's assets;

(d) If the petitioner seeks an order related to the dwelling of the respondent, visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the order is granted;

(e) If a protective arrangement instead of guardianship is sought, obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition;

(f) If a protective arrangement instead of conservatorship is sought, review financial records of the respondent, if relevant to the court visitor's recommendation under subsection (7)(b) of this section; and

(g) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(7) A court visitor under subsection (1), (2), or (3) of this section promptly shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under RCW 11.130.580 (1) through (3), at least fifteen days prior to the hearing on the petition filed under RCW 11.130.585, 11.130.590, or 11.130.595, which must include:

(a) To the extent relevant to the order sought, a summary of self-care, independent living tasks, and financial management tasks the respondent:

(i) Can manage without assistance or with existing supports;

(ii) Could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making; and

(iii) Cannot manage;

(b) A recommendation regarding the appropriateness of the protective arrangement sought and whether a less restrictive alternative for meeting the respondent's needs is available;

(c) If the petition seeks to change the physical location of the dwelling of the respondent, a statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to the respondent's dwelling;

(d) A ~~((recommendation whether))~~ statement whether the respondent declined a professional evaluation under RCW 11.130.615 ((is necessary)) and what other information is available to determine the respondent's needs and abilities without the professional evaluation;

(e) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(f) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(g) Any other matter the court directs.

Sec. 312. RCW 11.130.080 and 2019 c 437 s 116 are each amended to read as follows:

(1) A person may file with the court a request for notice under this chapter if the person is:

(a) Not otherwise entitled to notice; and

(b) Interested in the welfare of a respondent, individual subject to guardianship or conservatorship, or individual subject to a protective arrangement under Article 5 of this chapter.

(2) A request under subsection (1) of this section must include a statement showing the interest of the person making the request and the address of the person or an attorney for the person to whom notice is to be given.

(3) If the court approves a request under subsection (1) of this section, the ~~((court))~~ approved individual shall give notice of the approval to the guardian or conservator, if one has been

appointed, or the respondent if no guardian or conservator has been appointed.

Sec. 313. RCW 11.130.120 and 2019 c 437 s 124 are each amended to read as follows:

(1) A person must not recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

(a) The person has actual knowledge or a reasonable belief that the letters of office of the guardian or conservator are invalid or the conservator or guardian is exceeding or improperly exercising authority granted by the court; or

(b) The person has actual knowledge that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator.

(2) A person may refuse to recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

(a) The guardian's or conservator's proposed action would be inconsistent with this chapter; or

(b) The person makes, or has actual knowledge that another person has made, a report to the department of children, youth, and families or the department of social and health services stating a good-faith belief that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator.

(3) A person that refuses to accept the authority of a guardian or conservator in accordance with subsection (2) of this section may report the refusal and the reason for refusal to the court. The court on receiving the report shall consider whether removal of the guardian or conservator or other action is appropriate.

(4) A guardian or conservator may petition the court to require a third party to accept a decision made by the guardian or conservator on behalf of the individual subject to guardianship or conservatorship.

(5) If the court determines that a third party has failed to recognize the legitimate authority of a guardian or conservator, or requires a third party to accept a decision made by the guardian on behalf of the individual subject to guardianship, the court may order that third party to compensate the guardian or conservator, for the time spent only to the extent the court determines the opposition was reasonably necessary to protect the interests of the individual subject to guardianship.

Sec. 314. RCW 11.130.295 and 2019 c 437 s 307 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a hearing under RCW 11.130.275 may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under RCW 11.130.275 may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent ~~((consistently and repeatedly))~~ has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so; or

(b) There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive services and technological assistance.

(3) The respondent may be assisted in a hearing under RCW

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11.130.275 by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under RCW 11.130.275.

(5) At a hearing held under RCW 11.130.275, the respondent may:

(a) Present evidence and subpoena witnesses and documents;
 (b) Examine witnesses, including any court-appointed evaluator and the court visitor; and

(c) Otherwise participate in the hearing.

(6) Unless excused by the court for good cause, a proposed guardian shall attend a hearing under RCW 11.130.275.

(7) A hearing under RCW 11.130.275 must be closed on request of the respondent and a showing of good cause.

(8) Any person may request to participate in a hearing under RCW 11.130.275. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

Sec. 315. RCW 11.130.585 and 2019 c 437 s 502 are each amended to read as follows:

(1) After the hearing on a petition under RCW 11.130.270 for a guardianship or under RCW 11.130.580(2) for a protective arrangement instead of guardianship, the court may issue an order under subsection (2) of this section for a protective arrangement instead of guardianship if the court finds by clear and convincing evidence that:

(a) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(b) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) If the court makes the findings under subsection (1) of this section, the court, instead of appointing a guardian, may:

(a) Authorize or direct a transaction necessary to meet the respondent's need for health, safety, or care, including:

(i) A particular medical treatment or refusal of a particular medical treatment; or

(ii) ~~((A move to a specified place of dwelling; or
 (iii)))~~ Visitation or supervised visitation between the respondent and another person;

(b) Restrict access to the respondent by a specified person whose access places the respondent at serious risk of physical, psychological, or financial harm; and

(c) Reorder other arrangements on a limited basis that are appropriate.

(3) In deciding whether to issue an order under this section, the court shall consider the factors under RCW 11.130.330 and 11.130.335 that a guardian must consider when making a decision on behalf of an adult subject to guardianship.

Sec. 316. RCW 11.130.600 and 2019 c 437 s 505 are each amended to read as follows:

(1) All petitions filed under RCW 11.130.595 for ~~((appointment of a guardian for an adult))~~ the establishment of a protective arrangement shall be heard within sixty days unless an extension of time is requested by a party or the court visitor within such sixty-day period and granted for good cause shown.

(2)(a) A copy of a petition under RCW 11.130.580 and notice

of a hearing on the petition must be served personally on the respondent and the court visitor appointed under RCW 11.130.605 not more than five court days after the petition under RCW 11.130.595 has been filed.

(b) A copy of a petition under RCW 11.130.580 and notice of a hearing on the petition must be served personally on the respondent and the court visitor appointed under RCW 11.130.605 not more than five court days after the petition under RCW 11.130.595 has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition for a protective arrangement. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under RCW 11.130.580, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under RCW 11.130.595 (1) through (3) and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from granting the petition.

(4) After the court has ordered a protective arrangement under this article, notice of a hearing on a petition filed under this chapter, together with a copy of the petition, must be given to the respondent and any other person the court determines.

Sec. 317. RCW 11.130.625 and 2019 c 437 s 510 are each amended to read as follows:

The ~~((court))~~ petitioner shall give notice of an order under this article to the individual who is subject to the protective arrangement instead of guardianship or conservatorship, a person whose access to the individual is restricted by the order, and any other person the court determines.

Sec. 318. RCW 11.130.610 and 2019 c 437 s 507 are each amended to read as follows:

(1)(a) The respondent shall have the right to be represented by a willing attorney of their choosing at any stage in protective arrangement proceedings. Any attorney purporting to represent a respondent or person subject to a protective arrangement shall petition the court to be appointed to represent the respondent or person subject to a protective arrangement.

(b) Unless the respondent in a proceeding under this article is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay, except as provided otherwise in (c) of this subsection.

(c)(i) The court must appoint an attorney to represent the respondent at public expense when either:

(A) The respondent is unable to afford an attorney;

(B) The expense of an attorney would result in substantial hardship to the respondent; or

(C) The respondent does not have practical access to funds with which to pay an attorney. If the respondent can afford an attorney but lacks practical access to funds, the court must provide an attorney and may impose a reimbursement requirement as part of a final order.

(ii) When, in the opinion of the court, the rights and interests of the respondent cannot otherwise be adequately protected and represented, the court on its own motion must appoint an attorney at any time to represent the respondent.

(iii) An attorney must be provided under this subsection (1)(c) as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks is presumed by a

reviewing court to be inadequate time for consultation and preparation.

(2) An attorney representing the respondent in a proceeding under this article shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive alternative in type, duration, and scope, consistent with the respondent's interests.

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under this article if:

(a) The parent objects to the entry of an order for a protective arrangement instead of guardianship or conservatorship;

(b) The court determines that counsel is needed to ensure that consent to the entry of an order for a protective arrangement is informed; or

(c) The court otherwise determines the parent needs representation.

Sec. 319. RCW 11.130.615 and 2019 c 437 s 508 are each amended to read as follows:

~~(1) (At or before a hearing on a petition under this article for a protective arrangement, the court shall order a professional evaluation of the respondent:~~

~~(a) If the respondent requests the evaluation; or~~

~~(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.~~

~~(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a licensed physician, psychologist, social worker, or other individual appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:~~

~~(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;~~

~~(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;~~

~~(c) A prognosis for improvement, including with regard to the ability to manage the respondent's property and financial affairs if a limitation in that ability is alleged, and recommendation for the appropriate treatment, support, or habilitation plan; and~~

~~(d) The date of the examination on which the report is based.~~

~~(3) The respondent may decline.) On receipt of a petition under RCW 11.130.595 and at the time the court appoints a court visitor under RCW 11.130.605, the court shall order a professional evaluation of the respondent.~~

(2) The respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, advanced registered nurse practitioner licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A RCW selected by the court visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. If the respondent opposes the professional selected by the court visitor, the court visitor shall obtain a professional evaluation from the professional selected by

the respondent. The court visitor, after receiving a professional evaluation from the individual selected by the respondent, may obtain a supplemental evaluation from a different professional.

(3) The individual conducting the evaluation shall provide the completed evaluation report to the court visitor within thirty days of the examination of the respondent. The court visitor shall file the report in a sealed record with the court. Unless otherwise directed by the court, the report must contain:

(a) The professional's name, address, education, and experience;

(b) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;

(c) An evaluation of the respondent's mental and physical condition and, if appropriate, education potential, adaptive behavior, and social skills;

(d) A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan;

(e) A description of the respondent's current medications, and the effect of the medications on the respondent's cognitive and functional abilities;

(f) Identification or persons with whom the professional has met or spoken with regarding the respondent; and

(g) The date of the examination on which the report is based.

(4) If the respondent declines to participate in an evaluation ordered under subsection (1) of this section, the court may proceed with the hearing under RCW 11.130.600 if the court finds that it has sufficient information to determine the respondent's needs and abilities without the professional evaluation.

Sec. 320. RCW 11.125.080 and 2019 c 437 s 316 are each amended to read as follows:

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

(2) If, after a principal executes a power of attorney, a court appoints a ~~((guardian of the principal's estate or other fiduciary charged with the management of all of the principal's property, the power of attorney remains in effect subject to the provisions of RCW 11.130.335(1).))~~ conservator of the estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues, subject to the provisions of RCW 11.130.335(1) and 11.130.435(4), unless limited, suspended, or terminated by the court.

(3) If, after a principal executes a power of attorney ~~((a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some but not all of the principal's property, the power of attorney shall not terminate or be modified, except to the extent ordered by the court.))~~ that includes health care decisions, a court appoints a guardian of the person, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated and the agent's authority continues, subject to the provisions of RCW 11.130.335(1) and 11.130.435(4), unless limited, suspended, or terminated by the court.

NEW SECTION. Sec. 321. A new section is added to chapter 11.130 RCW to read as follows:

This form must be used to notify an adult respondent of the respondent's rights that could be restricted if a guardianship petition under RCW 11.130.270 or a conservatorship petition under RCW 11.130.365 is granted.

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**IMPORTANT NOTICE
PLEASE READ CAREFULLY**

A petition to have a guardian or conservator appointed for you has been filed in the . . . county superior court by . . . If a guardian or conservator is appointed, you could lose one or more of the following rights:

- (1) To marry, divorce, or enter into or end a state registered domestic partnership;
- (2) To vote or hold an elected office;
- (3) To enter into a contract or make or revoke a will;
- (4) To appoint someone to act on your behalf;
- (5) To sue and be sued other than through a guardian;
- (6) To possess a license to drive;
- (7) To buy, sell, own, mortgage, or lease property;
- (8) To consent to or refuse medical treatment;
- (9) To decide who shall provide care and assistance;
- (10) To make decisions regarding social aspects of your life.

Under the law, you have certain rights.

You have the right to be represented by a lawyer of your own choosing. The court will appoint a lawyer to represent you if you are unable to pay or payment would result in a substantial hardship to you.

You have the right to ask for a jury trial on the issue of capacity.

You have the right to be present in court and testify when the hearing is held to decide whether or not you need a guardian or conservator. If a court visitor is appointed, you have the right to request the court to replace that person.

You have the right to ask the court to establish a protective arrangement instead of a guardianship or conservatorship.

**PART IV
OFFICE OF PUBLIC GUARDIANSHIP**

Sec. 401. RCW 2.72.005 and 2019 c 215 s 1 are each amended to read as follows:

(1) In establishing an office of public guardianship and conservatorship, the legislature intends to promote the availability of guardianship, conservatorship, and alternate services that provide support for decision making for individuals who need them and for whom adequate services may otherwise be unavailable. The legislature reaffirms its commitment to treat liberty and autonomy as paramount values for all Washington residents and to authorize public guardianship and conservatorship only to the minimum extent necessary to provide for health or safety, or to manage financial affairs, when the legal conditions for appointment of a guardian or conservator are met. It does not intend to alter those legal conditions or to expand judicial authority to determine that any individual ~~((is incapacitated))~~ may be subject to guardianship or conservatorship.

(2) The legislature further recognizes that ~~((services that support))~~ decision making assistance for people who have limited capacity can preserve individual liberty and provide effective support responsive to individual needs and wishes. The legislature also recognizes that these services may be less expensive than guardianship and conservatorship for the state, the courts, and for individuals with limited capacity and their families.

Sec. 402. RCW 2.72.010 and 2019 c 215 s 2 are each reenacted and amended to read as follows:

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

(1) ~~((“Attorney in fact” means an agent authorized by an individual to act on his or her behalf pursuant to a power of attorney.))~~ “Agent” means a person granted authority to act for a principal under a power of attorney.

(2) “Contract service provider” means a public guardian or

public conservator providing services under contract with the office of public guardianship and conservatorship. Any public guardian or public conservator providing such services must be certified by the certified professional guardian board established by the supreme court.

~~(3)~~ “Estate administration” means services provided for a fee to the estate of an individual who died at age eighteen or older, in circumstances where a contract service provider is granted letters under RCW 11.28.120(7).

~~(4)~~ “Long-term care services” means services provided through the department of social and health services either in a hospital or skilled nursing facility, or in another setting under a home and community-based waiver authorized under 42 U.S.C. Sec. 1396n.

~~((3))~~ (5) “Office” means the office of public guardianship and conservatorship.

~~((4))~~ (6) “Public conservator” means an individual or entity appointed by a court to make decisions with respect to property or financial affairs of an individual subject to conservatorship, and who provides these services under contract with the office of public guardianship and conservatorship.

~~(7)~~ “Public guardian” means an individual or entity ~~((providing public guardianship services))~~ appointed by the court to make decisions with respect to the personal affairs of an individual, and who provides these services under contract with the office of public guardianship and conservatorship.

~~((5))~~ “Public guardianship services” means the services provided by a guardian or limited guardian appointed under chapters 11.88 and 11.92 RCW, who is compensated under a contract with the office of public guardianship.

~~(6))~~ (8) “Representative payee” means the designated agent for a recipient of government benefits whom a government agency has determined to be incapable of managing his or her benefits.

~~((7))~~ “Supported decision making” (9) “Decision-making assistance” means support for an individual with diminished decision-making ability in making decisions affecting health or safety or to manage financial affairs. Assistance includes, without limitation, acting as a representative payee, an ~~((attorney in fact))~~ agent, a trustee, ~~((or))~~ a public guardian, or a public conservator.

~~((8))~~ (10) “Trustee” means a person or organization named in a trust agreement to handle trust property for the benefit of one or more beneficiaries in accordance with the terms of the agreement.

Sec. 403. RCW 2.72.020 and 2019 c 215 s 3 are each amended to read as follows:

(1) There is created an office of public guardianship and conservatorship within the administrative office of the courts.

(2) The supreme court shall appoint a public guardianship and conservatorship administrator to establish and administer a public guardianship, public conservatorship, ~~((supported))~~ decision-making assistance, and estate administration program in the office of public guardianship and conservatorship. The public guardianship and conservatorship administrator serves at the pleasure of the supreme court.

Sec. 404. RCW 2.72.030 and 2019 c 215 s 4 are each amended to read as follows:

The public guardianship and conservatorship administrator is authorized to establish and administer a public guardianship, public conservatorship, ~~((supported))~~ decision-making assistance, and estate administration program as follows:

(1)(a) The office shall contract with ~~((public or private entities or individuals to provide:~~

~~(i) Public guardianship, supported decision making assistance, and estate administration services to))~~ certified professional guardians and conservators or certified professional guardian and conservator agencies to provide public guardianship, public conservatorship, decision-making assistance, and estate

administration services to persons age eighteen or older whose income does not exceed two hundred percent of the federal poverty level determined annually by the United States department of health and human services or who are receiving long-term care services through the Washington state department of social and health services.((§

(ii) ~~Supported decision-making services for a fee to persons age eighteen or older~~), when there is no one else qualified who is willing and able to serve.((§ and

(iii) ~~Estate administration services for a fee to the estate of an individual who died at age eighteen or older, in circumstances where a service provider under contract with the office of public guardianship is granted letters under RCW 11.28.120(7))~~).

(b) Neither the public guardianship and conservatorship administrator nor the office may act as public guardian or ~~(limited guardian)~~ conservator or act in any other representative capacity for any individual.

(c) The primary function of the office is to contract for public guardianship, public conservatorship, ~~(supported)~~ decision-making assistance, and estate administration services that are provided in a manner consistent with the requirements of this chapter. The office is subject to audit by the state auditor.

(d) Public guardianship, public conservatorship, ~~(supported)~~ decision-making assistance, and estate administration service contracts are dependent upon legislative appropriation. This chapter does not create an entitlement.

(2) The office shall adopt and maintain eligibility criteria to enable it to serve individuals with the greatest need when the number of cases in which courts propose to appoint a public guardian or conservator exceeds the number of cases in which ~~(public guardianship and supported decision-making assistance)~~ services can be provided. In adopting such criteria, the office may consider factors including, but not limited to, the following: Whether an individual with diminished decision-making ability is at significant risk of harm from abuse, exploitation, abandonment, neglect, or self-neglect; and whether an individual with diminished decision-making ability is in imminent danger of loss or significant reduction in public services that are necessary for the individual to live successfully in the most integrated and least restrictive environment that is appropriate in light of the individual's needs and values.

(3) The office shall adopt minimum standards of practice for public guardians, public conservators, and other contract service providers providing public guardianship, public conservatorship, ~~(supported)~~ decision-making assistance, and estate administration services. ~~(Any public guardian providing such public guardianship services must be certified by the certified professional guardian board established by the supreme court.)~~

(4) The office shall require a public guardian or conservator to visit each ~~(incapacitated person)~~ individual subject to guardianship or conservatorship for which public guardianship or conservatorship services are provided no less than monthly to be eligible for compensation.

(5) The office shall not petition for appointment of a public guardian or conservator for any individual. It may develop a proposal for the legislature to make affordable legal assistance available to petition for guardianships or conservatorships.

(6) The office shall develop and adopt a case-weighting system designed to balance the increasing need for access to guardianship and conservatorship services, while effectively managing public guardian and conservator caseloads and providing appropriate supports for individuals on that caseload.

(a) The standard caseload limit for a contract service provider must be no more than twenty ~~(incapacitated)~~ persons placed under a guardianship per certified professional guardian or conservator. The office may authorize adjustments to the standard

caseload limit on a case-by-case basis, and payment for services to a contract service provider that serves more than twenty ~~(incapacitated)~~ persons placed under a guardianship per professional guardian or conservator is subject to review by the office. In evaluating caseload size, the office shall consider the expected activities, time, and demands involved, as well as the available support for each case.

(b) ~~(Caseload)~~ Adjusted caseload limits must not exceed thirty-six cases. The office shall not authorize payment for services for any contract service provider that fails to comply with the ~~(standard)~~ adjusted caseload limit guidelines.

(c) The office shall develop case-weighting guidelines to include a process for adjusting caseload limits, relevant policies and procedures, and recommendations for changes in court rules which may be appropriate for the implementation of the system.

(d) By December 1, 2019, the office must submit to the legislature a report detailing the final case-weighting system and guidelines, and implementation progress and recommendations. The report must be made available to the public.

(e) The administrative office of the courts shall notify the superior courts of the policies contained in the final case-weighting system.

(7) The office shall monitor and oversee the use of state funding to ensure compliance with this chapter.

(8) The office shall collect uniform and consistent basic data elements regarding service delivery. This data shall be made available to the legislature and supreme court in a format that is not identifiable by individual ~~(incapacitated person)~~ subject to guardianship or conservatorship to protect confidentiality.

(9) The office shall require contract service providers to seek reimbursement of fees from program clients who are receiving long-term care services through the department of social and health services to the extent, and only to the extent, that such reimbursement may be paid, consistent with an order of the superior court, from income that would otherwise be required by the department to be paid toward the cost of the client's care. Fees reimbursed shall be remitted by the contract service provider to the office unless a different disposition is directed by the public guardianship and conservatorship administrator.

(10) Fees may be collected from the estate when the ~~(decedent's)~~ decedent's income prior to death exceeded two hundred percent of the federal poverty level, determined annually by the United States department of health and human services, based on a fee schedule established by the office that must be published annually.

(11) The office shall require public ~~(guardianship providers)~~ guardians or conservators to certify annually that for each individual served they have reviewed the need for continued public guardianship ~~(services)~~ or conservatorship and the appropriateness of limiting, or further limiting, the authority of the public guardian or conservator under the applicable ~~(guardianship)~~ order, and that where termination or modification of a guardianship or conservatorship order appears warranted, the superior court has been asked to take the corresponding action.

(12) The office shall adopt a process for receipt and consideration of and response to complaints against the office and ~~(contracted)~~ contract service providers of public guardianship, public conservatorship, ~~(supported)~~ decision-making assistance, and estate administration ~~(services)~~. The process shall include investigation in cases in which investigation appears warranted in the judgment of the administrator.

(13) The office shall develop standardized forms and reporting instruments that may include, but are not limited to, intake, initial assessment, guardianship care plan, decisional accounting, staff time logs, changes in condition or abilities of an ~~(incapacitated~~

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person)) individual subject to guardianship or conservatorship, and values history. The office shall collect and analyze the data gathered from these reports.

(14) The office shall identify training needs for contract service providers it contracts with, and shall make recommendations to the supreme court, the certified professional guardian board, and the legislature for improvements in training. The office may offer training to individuals providing services pursuant to this chapter, to individuals who, in the judgment of the administrator or the administrator's designee, are likely to provide such services in the future, to lay guardians or conservators, and to the family and friends of individuals subject to guardianship or conservatorship.

(15) The office shall establish a system for monitoring the performance of contract service providers, and office staff shall make in-home visits to a randomly selected sample of public guardianship, public conservatorship, and ~~((supported))~~ decision-making assistance clients. The office may conduct further monitoring, including in-home visits, as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a public guardianship, public conservatorship, ~~((supported))~~ decision-making assistance, and estate administration client that is available to the guardian or conservator.

Sec. 405. RCW 11.28.120 and 2019 c 215 s 5 are each amended to read as follows:

Administration of an estate if the decedent died intestate or if the personal representative or representatives named in the will declined or were unable to serve shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled in the following order:

(1) The surviving spouse or state registered domestic partner, or such person as he or she may request to have appointed.

(2) The next of kin in the following order: (a) Child or children; (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e) nephews or nieces.

(3) The trustee named by the decedent in an inter vivos trust instrument, testamentary trustee named in the will, guardian ~~((of the person or estate))~~ of the decedent, conservator of the decedent, or ~~((attorney-in-fact))~~ an agent named in a durable power of attorney appointed by the decedent, if any such a fiduciary controlled or potentially controlled substantially all of the decedent's probate and nonprobate assets.

(4) One or more of the beneficiaries or transferees of the decedent's probate or nonprobate assets.

(5)(a) The director of revenue, or the director's designee, for those estates having property subject to the provisions of chapter 11.08 RCW; however, the director may waive this right.

(b) The secretary of the department of social and health services for those estates owing debts for long-term care services as defined in RCW 74.39A.008; however the secretary may waive this right.

(6) One or more of the principal creditors.

(7) If the persons so entitled shall fail for more than forty days after the death of the decedent to present a petition for letters of administration, or if it appears to the satisfaction of the court that there is no next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint a contract service provider ~~((under contract))~~ with the office of public guardianship and conservatorship under chapter 2.72 RCW or any suitable person to administer such estate.

PART V

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT

Sec. 501. RCW 11.90.020 and 2009 c 81 s 2 are each amended to read as follows:

In this chapter:

(1) "Adult" means an individual who has attained eighteen years of age.

(2) ~~((("Guardian of the estate")))~~ "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under chapter 11.130 RCW, and includes a conservator appointed by the court in another state.

(3) ~~((("Guardian of the person" or "guardian")))~~ "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under chapter 11.130 RCW, and includes a guardian appointed by the court in another state.

(4) "Guardianship order" means an order appointing a guardian ~~((of the person or guardian of the estate))~~.

(5) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian ~~((of the person or guardian of the estate))~~ is sought or has been issued.

(6) ~~((("Incapacitated person" means an adult for whom a guardian of the person or guardian of the estate has been appointed.~~

~~((7))~~ "Party" means the respondent, petitioner, guardian ~~((of the person or guardian of the estate))~~, conservator, or any other person allowed by the court to participate in a guardianship or protective proceeding.

~~((8))~~ (7) "Person," except in the term ~~((incapacitated))~~ person under a guardianship, person under a conservatorship, or protected person, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(8) "Person subject to a guardianship" means an adult for whom a guardian has been appointed.

(9) "Protected person" means an adult for whom a protective order has been issued.

(10) "Protective order" means an order appointing a ~~((guardian of the estate))~~ conservator or other order related to management of an adult's property ~~((including an order issued by a court in another state appointing a conservator))~~.

(11) "Protective proceeding" means a judicial proceeding in which a protective order is sought or has been issued.

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

(13) "Respondent" means an adult for whom a protective order or the appointment of a guardian ~~((of the person))~~ is sought.

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

Sec. 502. RCW 11.90.230 and 2009 c 81 s 10 are each amended to read as follows:

(1) A court of this state lacking jurisdiction under RCW 11.90.220 has special jurisdiction to do any of the following:

(a) ~~((In an emergency, process a petition under RCW 11.88.090 for appointment of a guardian for a respondent who is physically present in this state, for a term not exceeding ninety days;))~~ Appoint a guardian in an emergency for a term not exceeding sixty days for a respondent who is physically present in this state;

(b) Issue a protective order with respect to ~~((a respondent's))~~ real or tangible personal property located in this state if a petition for appointment of a guardian or a conservator for the respondent is pending or has been approved in another state;

(c) Appoint a guardian (~~(of the person or guardian of the estate)~~) or conservator for (~~(an incapacitated)~~) a person under a guardianship, person under a conservatorship, or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to RCW 11.90.400.

(2) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

Sec. 503. RCW 11.90.250 and 2009 c 81 s 12 are each amended to read as follows:

(1) A court of this state having jurisdiction under RCW 11.90.220 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(2) If a court of this state declines to exercise its jurisdiction under subsection (1) of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(3) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

- (a) Any expressed preference of the respondent;
- (b) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;
- (c) The length of time the respondent was physically present in or was a legal resident of this or another state;
- (d) The distance of the respondent from the court in each state;
- (e) The financial circumstances of the respondent's estate;
- (f) The nature and location of the evidence;
- (g) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
- (h) The familiarity of the court of each state with the facts and issues in the proceeding; and
- (i) If an appointment were made, the court's ability to monitor the conduct of the guardian (~~(of the person or guardian of the estate)~~) or conservator.

Sec. 504. RCW 11.90.400 and 2009 c 81 s 16 are each amended to read as follows:

(1) A guardian (~~(of the person or guardian of the estate)~~) or conservator appointed in this state may petition the court to transfer the guardianship or conservatorship to another state.

(2) Notice of a petition under subsection (1) of this section must be given to the persons that would be entitled to notice of a petition in this state for the appointment of a guardian (~~(of the person or guardian of the estate)~~) or conservator.

(3) On the court's own motion or on request of the guardian (~~(of the person or guardian of the estate)~~) or conservator, the (~~(incapacitated)~~) person under a guardianship, person under a conservatorship, or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection (1) of this section.

(4) The court shall issue an order provisionally granting a petition to transfer a guardianship and shall direct the guardian (~~(of the person or guardian of the estate)~~) to petition for guardianship in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and the court finds that:

(a) The (~~(incapacitated)~~) person under a guardianship is physically present in or is reasonably expected to move permanently to the other state;

(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the (~~(incapacitated)~~) person under a guardianship; and

(c) Plans for care and services for the (~~(incapacitated)~~) person under a guardianship in the other state are reasonable and sufficient.

(5) The court shall issue a provisional order granting a petition to transfer a (~~(guardianship of the estate)~~) conservatorship and shall direct the (~~(guardian of the estate)~~) conservator to petition for (~~(guardianship of the estate or)~~) conservatorship in the other state if the court is satisfied that the (~~(guardianship of the estate)~~) conservatorship will be accepted by the court of the other state and the court finds that:

(a) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in RCW 11.90.200(2);

(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the protected person; and

(c) Adequate arrangements will be made for management of the protected person's property.

(6) The court shall issue a final order confirming the transfer and terminating the guardianship (~~(of the person or guardianship of the estate)~~) or conservatorship upon its receipt of:

(a) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred which is issued under provisions similar to RCW 11.90.410; and

(b) The documents required to terminate a guardianship (~~(of the person or guardianship of the estate)~~) or conservatorship in this state.

Sec. 505. RCW 11.90.410 and 2009 c 81 s 17 are each amended to read as follows:

(1) To confirm transfer of a guardianship or conservatorship transferred to this state under provisions similar to RCW 11.90.400, the guardian or conservator must petition the court in this state to accept the guardianship or conservatorship. The petition must include a certified copy of the other state's provisional order of transfer.

(2) Notice of a petition under subsection (1) of this section must be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

(3) On the court's own motion or on request of the guardian or conservator, the (~~(incapacitated)~~) person under a guardianship, person under a conservatorship, or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (1) of this section.

(4) The court shall issue an order provisionally granting a petition filed under subsection (1) of this section unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the (~~(incapacitated)~~) person under a guardianship, person under a conservatorship, or protected person; or

(b) The guardian or conservator is ineligible for appointment in this state.

(5) The court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian (~~(of the person or guardian of the estate)~~) or conservator in this state upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to

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RCW 11.90.400 transferring the proceeding to this state.

(6) Not later than ninety days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship (~~(of the person or guardianship of the estate)~~) or conservatorship needs to be modified to conform to the law of this state.

(7) In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the (~~(incapacitated)~~) person under a guardianship, person under a conservatorship, or protected person's incapacity and the appointment of the guardian or conservator.

(8) The denial by a court of this state of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or (~~(guardian of the estate)~~) conservator in this state if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

PART VI

SUPPORTED DECISION-MAKING AGREEMENTS

NEW SECTION. Sec. 601. DEFINITIONS. The definitions in this section apply throughout this section and sections 602 through 612 of this act unless the context clearly requires otherwise.

(1) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities.

(2) "Supported decision-making agreement" is an agreement between an adult with a disability and one or more supporters entered into under this chapter.

(3) "Supporter" means an adult who has entered into a supported decision-making agreement with an adult with a disability.

NEW SECTION. Sec. 602. PURPOSE. The purpose of sections 601 through 612 of this act is to recognize a less restrictive alternative to guardianship for adults with disabilities who need assistance with decisions regarding daily living.

NEW SECTION. Sec. 603. PRESUMPTION OF CAPACITY. (1) All adults are presumed to be capable of managing their affairs.

(2) The manner in which an adult communicates with others is not grounds for deciding that the adult is incapable of managing the adult's affairs.

(3) Execution of a supported decision-making agreement may not be used as evidence for the petition or appointment of a guardianship or conservatorship under this chapter, and does not preclude the ability of the adult who has entered into such an agreement to act independently of the agreement.

NEW SECTION. Sec. 604. SCOPE OF SUPPORTED DECISION-MAKING AGREEMENT. An adult with a disability may voluntarily, without undue influence or coercion, enter into a supported decision-making agreement with a supporter under which the adult with a disability authorizes the supporter to do any or all of the following:

(1) Provide supported decision-making, including assistance in understanding the options, responsibilities, and consequences of the adult's life decisions, without making those decisions on behalf of the adult with a disability;

(2) Assist the adult in accessing, collecting, and obtaining information that is relevant to a given life decision, including medical, psychological, financial, educational, or treatment records, from any person;

(3) Assist the adult with a disability in understanding the information described in subsection (2) of this section; and

(4) Assist the adult in communicating the adult's decisions to

appropriate persons.

NEW SECTION. Sec. 605. AUTHORITY OF SUPPORTER. A supporter may exercise the authority granted to the supporter in the supported decision-making agreement.

NEW SECTION. Sec. 606. TERM OF AGREEMENT. (1) Except as provided by subsection (2) of this section, the supported decision-making agreement extends until terminated by either party or by the terms of the agreement.

(2) The supported decision-making agreement is terminated if:

(a) The department of social and health services finds that the adult with a disability has been abused, neglected, or exploited by the supporter;

(b) The supporter is found criminally liable for conduct described in (a) of this subsection;

(c) The person with a disability gives notice to the supporter orally, in writing, through an assistive technology device, or by any other means or act showing a specific intent to terminate the agreement; or

(d) The supporter provides written notice of the supporter's resignation to the person with a disability. If a supported decision-making agreement includes more than one supporter, each supporter can terminate the agreement only as to that supporter.

NEW SECTION. Sec. 607. DISQUALIFICATION OF SUPPORTER. The following are disqualified from acting as a supporter:

(1) A person who is an employer or employee of the adult with a disability, unless the person is an immediate family member of the adult with a disability;

(2) A person directly providing paid support services to the adult with a disability, unless the person is an immediate family member of the adult with a disability; and

(3) An individual against whom the person with a disability has obtained an order of protection from abuse, or an individual who is the subject of a civil or criminal order prohibiting contact with the adult with a disability.

NEW SECTION. Sec. 608. ACCESS TO PERSONAL INFORMATION. (1) A supporter is only authorized to assist the adult with a disability in accessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement.

(2) If a supporter assists an adult with a disability in accessing, collecting, or obtaining personal information, including protected health information under the federal health insurance portability and accountability act of 1996, P.L. 104-191, or educational records under the federal family educational rights and privacy act of 1974, 20 U.S.C. Sec. 1232g, the supporter shall ensure the information is kept privileged and confidential, as applicable, and is not subject to unauthorized access, use, or disclosure.

(3) The existence of a supported decision-making agreement does not preclude an adult with a disability from seeking personal information without the assistance of a supporter.

NEW SECTION. Sec. 609. AUTHORIZING AND WITNESSING OF SUPPORTED DECISION-MAKING AGREEMENT. (1) A supported decision-making agreement must be in writing, dated, and signed voluntarily, without coercion or undue influence, by the adult with a disability and the supporter in the presence of two or more subscribing witnesses or a notary public.

(2) If signed before two witnesses, the attesting witnesses must be at least eighteen years of age.

(3) The witnesses required by subsection (1) of this section may not be any of the following:

(a) A supporter for the person with a disability;

(b) An employee or agent of a supporter named in the supported decision-making agreement;

(c) A paid provider of services to the person with a disability; or
(d) Any person who does not understand the type of communication the person with a disability uses, unless an individual who understands the person with a disability's means of communication is present to assist during the execution of the supported decision-making agreement.

NEW SECTION. Sec. 610. FORM OF SUPPORTED DECISION-MAKING AGREEMENT. (1) Subject to subsection (2) of this section, a supported decision-making agreement is valid only if it is in substantially the following form:

SUPPORTED DECISION-MAKING AGREEMENT

Appointment of Supporter

I, (name of supported adult), make this agreement of my own free will.

I agree and designate that:

Name: (name of supporter)

Address: (address of supporter)

Phone Number: (phone number of supporter)

Email Address: (email address of supporter)

is my supporter.

My supporter may help me with making everyday life decisions relating to the following:

(Y/N) Obtaining food, clothing, and shelter.

(Y/N) Taking care of my health.

(Y/N) Managing my financial affairs.

(Y/N) Other matters: (specify).

My supporter is not allowed to make decisions for me. To help me with my decisions, my supporter may:

1. Help me access, collect, or obtain information that is relevant to a decision, including medical, psychological, financial, educational, or treatment records;

2. Help me understand my options so I can make an informed decision; and

3. Help me communicate my decision to appropriate persons.

(Y/N) A release allowing my supporter to see protected health information under the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, is attached.

(Y/N) A release allowing my supporter to see educational records under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232g, is attached.

Effective Date of Supported Decision-Making Agreement

This supported decision-making agreement is effective immediately and will continue until (insert date) or until the agreement is terminated by my supporter or me or by operation of law.

Signed this (day) day of (month), (year)

Consent of Supporter

I, (name of supporter), acknowledge my responsibilities and consent to act as a supporter under this agreement.

(Signature of supporter)

(Printed name of supporter)

Supporter

(Signature of supported adult)

(Printed name of supported adult)

Supported Adult

(Signature of witness 1)

(Printed name of witness 1)

Witness 1

(Signature of witness 2)

(Printed name of witness 2)

Witness 2

State of

County of

This record was acknowledged before me on (date) by

(name(s) of individuals).

.....
(Signature of notary public)

(Stamp)

(Title of office)

My commission expires:

(Date)

WARNING: PROTECTION FOR VULNERABLE ADULTS AS DEFINED UNDER CHAPTER 74.34 RCW.

IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT A VULNERABLE ADULT IS BEING ABUSED, ABANDONED, NEGLECTED (INCLUDING SELF-NEGLECT), OR PERSONALLY OR FINANCIALLY EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE ALLEGED ABUSE, ABANDONMENT, NEGLECT, SELF-NEGLECT, OR PERSONAL OR FINANCIAL EXPLOITATION TO THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES BY CALLING THE ABUSE HOTLINE AT 1-800-END-HARM.

(2) A supported decision-making agreement may be in any form not inconsistent with subsection (1) of this section and the other requirements of this chapter.

NEW SECTION. Sec. 611. RELIANCE ON AGREEMENT—LIMITATION OF LIABILITY. (1) A person who receives the original or a copy of a supported decision-making agreement shall rely on the agreement.

(2) A person is not subject to criminal or civil liability and has not engaged in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on a supported decision-making agreement.

NEW SECTION. Sec. 612. REPORTING OF SUSPECTED ABUSE, ABANDONMENT, NEGLECT (INCLUDING SELF-NEGLECT), OR PERSONAL OR FINANCIAL EXPLOITATION. If a person who receives a copy of a supported decision-making agreement or is aware of the existence of a supported decision-making agreement has cause to believe that a vulnerable adult as defined in RCW 74.34.020 is being abused, abandoned, neglected (including self-neglect), or personally or financially exploited by the supporter, the person shall make a report to the department of social and health services, except where the person is exempted from the requirements to report abuse due to a confidential relationship recognized in statute, regulation, or professional standards.

PART VII

TECHNICAL CORRECTIONS

Sec. 701. RCW 2.56.150 and 2005 c 282 s 9 are each amended to read as follows:

(1) The administrator for the courts shall review the advisability and feasibility of the statewide mandatory use of court-appointed special advocates as described in RCW 26.12.175 to act as guardians ad litem in appropriate cases under Titles 13 and 26 RCW. The review must explore the feasibility of obtaining various sources of private and public funding to implement statewide mandatory use of court-appointed special advocates, such as grants and donations, instead of or in combination with raising court fees or assessments.

(2) The administrator shall also conduct a study on the feasibility and desirability of requiring all persons who act as guardians ad litem or court visitors under Titles 11, 13, and 26 RCW to be certified as qualified guardians ad litem or court visitors prior to their eligibility for appointment.

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(3) In conducting the review and study the administrator shall consult with: (a) The presidents or directors of all public benefit nonprofit corporations that are eligible to receive state funds under RCW 43.330.135; (b) the attorney general, or a designee; (c) the secretary of the department of social and health services, or a designee; (d) the superior court judges' association; (e) the Washington state bar association; (f) public defenders who represent children under Title 13 or 26 RCW; (g) private attorneys who represent parents under Title 13 or 26 RCW; (h) professionals who evaluate families for the purposes of determining the custody or placement decisions of children; (i) the office of financial management; (j) persons who act as volunteer or compensated guardians ad litem; and (k) parents who have dealt with guardians ad litem or court visitors in court cases. For the purposes of studying the feasibility of a certification requirement for guardians ad litem acting under Title 11 RCW the administrator shall consult with the advisory group formed under RCW ~~((11.88.090))~~ 11.130.155.

(4) The administrator shall also conduct a review of problems and concerns about the role of guardians ad litem in actions under Titles 11, 13, and 26 RCW and recommend alternatives to strengthen judicial oversight of guardians ad litem or court visitors and ensure fairness and impartiality of the process. The administrator must accept and obtain comments from parties designated in subsection (3) of this section.

Sec. 702. RCW 4.16.190 and 2006 c 8 s 303 are each amended to read as follows:

(1) Unless otherwise provided in this section, if a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter ~~((11.88))~~ 11.130 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action.

(2) Subsection (1) of this section with respect to a person under the age of eighteen years does not apply to the time limited for the commencement of an action under RCW 4.16.350.

Sec. 703. RCW 7.28.090 and 1977 ex.s. c 80 s 7 are each amended to read as follows:

RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements owned by the United States or this state, nor to school lands, nor to lands held for any public purpose. Nor shall they extend to lands or tenements when there shall be an adverse title to such lands or tenements, and the holder of such adverse title is a person under eighteen years of age, or ~~((incompetent within the meaning of RCW 11.88.010: PROVIDED, Such))~~ has been placed under a guardianship under RCW 11.130.265 or has been placed under a conservatorship under RCW 11.130.360. However, such persons as aforesaid shall commence an action to recover such lands or tenements so possessed as aforesaid, within three years after the several disabilities herein enumerated shall cease to exist, and shall prosecute such action to judgment, or in case of vacant and unoccupied land shall, within the time last aforesaid, pay to the person or persons who have paid the same for his or her betterments, and the taxes, with interest on said taxes at the legal rate per annum that have been paid on said vacant and unimproved land.

Sec. 704. RCW 7.36.020 and 2008 c 6 s 801 are each amended to read as follows:

Writs of habeas corpus shall be granted in favor of parents, guardians, limited guardians where appropriate, spouses or domestic partners, and next of kin, and to enforce the rights, and

for the protection of ~~((infants and incompetent or disabled persons within the meaning of RCW 11.88.010))~~ minors and persons who have been placed under a guardianship under RCW 11.130.265 or under a conservatorship under RCW 11.130.360; and the proceedings shall in all cases conform to the provisions of this chapter.

Sec. 705. RCW 7.70.065 and 2019 c 232 s 8 and 2019 c 209 s 1 are each reenacted and amended to read as follows:

(1) Informed consent for health care for a patient who is ~~((not competent, as defined in RCW 11.88.010(1)(e)))~~ a minor or, to consent may be obtained from a person authorized to consent on behalf of such patient.

(a) Persons authorized to provide informed consent to health care on behalf of a patient who ~~((is not competent to consent, based upon a reason other than incapacity as defined in RCW 11.88.010(1)(d)))~~ has been placed under a guardianship under RCW 11.130.265 a minor or, shall be a member of one of the following classes of persons in the following order of priority:

- (i) The appointed guardian of the patient, if any;
- (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (iii) The patient's spouse or state registered domestic partner;
- (iv) Children of the patient who are at least eighteen years of age;
- (v) Parents of the patient;
- (vi) Adult brothers and sisters of the patient;
- (vii) Adult grandchildren of the patient who are familiar with the patient;
- (viii) Adult nieces and nephews of the patient who are familiar with the patient;
- (ix) Adult aunts and uncles of the patient who are familiar with the patient; and
- (x)(A) An adult who:
 - (I) Has exhibited special care and concern for the patient;
 - (II) Is familiar with the patient's personal values;
 - (III) Is reasonably available to make health care decisions;
 - (IV) Is not any of the following: A physician to the patient or an employee of the physician; the owner, administrator, or employee of a health care facility, nursing home, or long-term care facility where the patient resides or receives care; or a person who receives compensation to provide care to the patient; and
 - (V) Provides a declaration under (a)(x)(B) of this subsection.

(B) An adult who meets the requirements of (a)(x)(A) of this subsection shall provide a declaration, which is effective for up to six months from the date of the declaration, signed and dated under penalty of perjury pursuant to ~~((RCW 9A.72.085))~~ chapter 5.50 RCW, that recites facts and circumstances demonstrating that he or she is familiar with the patient and that he or she:

- (I) Meets the requirements of (a)(x)(A) of this subsection;
- (II) Is a close friend of the patient;
- (III) Is willing and able to become involved in the patient's health care;
- (IV) Has maintained such regular contact with the patient as to be familiar with the patient's activities, health, personal values, and morals; and
- (V) Is not aware of a person in a higher priority class willing and able to provide informed consent to health care on behalf of the patient.

(C) A health care provider may, but is not required to, rely on a declaration provided under (a)(x)(B) of this subsection. The health care provider or health care facility where services are rendered is immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration provided in compliance with (a)(x)(B)

of this subsection.

(b) If the health care provider seeking informed consent for proposed health care of the patient who ~~((is not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent))~~ has been placed under a guardianship under RCW 11.130.265, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient ~~((not competent to consent under RCW 11.88.010(1)(e), other than a person determined to be incapacitated because he or she is under the age of majority and who is not otherwise authorized to provide informed consent))~~ who has been placed under a guardianship under RCW 11.130.265, exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

(d) No rights under Washington's death with dignity act, chapter 70.245 RCW, may be exercised through a person authorized to provide informed consent to health care on behalf of a patient ~~((not competent to consent under RCW 11.88.010(1)(e)))~~ who is a minor or has been placed under a guardianship under RCW 11.130.265.

(2) Informed consent for health care, including mental health care, for a patient who ~~((is not competent, as defined in RCW 11.88.010(1)(e), because he or she))~~ is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who ~~((is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she))~~ is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b)(i) Informed consent for health care on behalf of a patient

who ~~((is incapacitated, as defined in RCW 11.88.010(1)(e), because he or she))~~ is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

(A) Consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(B) The minor patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, 115 Stat. 2005; and

(C) The minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the department of social and health services.

(ii) A person authorized to consent to care under this subsection (2)(b) and the person's employing school or school district are not subject to administrative sanctions or civil damages resulting from the consent or nonconsent for care, any care, or payment for any care, rendered pursuant to this section. Nothing in this section prevents a health care facility or a health care provider from seeking reimbursement from other sources for care provided to a minor patient under this subsection (2)(b).

(iii) Upon request by a health care facility or a health care provider, a person authorized to consent to care under this subsection (2)(b) must provide to the person rendering care a declaration signed and dated under penalty of perjury pursuant to chapter 5.50 RCW stating that the person is a school nurse, school counselor, or homeless student liaison and that the minor patient meets the elements under (b)(i) of this subsection. The declaration must also include written notice of the exemption from liability under (b)(ii) of this subsection.

(c) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient, or person claiming to be authorized to consent to the health care of the minor patient.

(d) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection. However, there is no obligation to require such documentation.

(e) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

(4) A person who knowingly provides a false declaration under this section shall be subject to criminal penalties under chapter

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9A.72 RCW.

Sec. 706. RCW 9.35.005 and 2017 c 4 s 3 are each amended to read as follows:

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

(1) "Financial information" means any of the following information identifiable to the individual that concerns the amount and conditions of an individual's assets, liabilities, or credit:

- (a) Account numbers and balances;
- (b) Transactional information concerning an account; and
- (c) Codes, passwords, social security numbers, tax identification numbers, driver's license or permit numbers, state identification numbers issued by the department of licensing, and other information held for the purpose of account access or transaction initiation.

(2) "Financial information repository" means a person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person.

(3) "Means of identification" means information or an item that is not describing finances or credit but is personal to or identifiable with an individual or other person, including: A current or former name of the person, telephone number, an electronic address, or identifier of the individual or a member of his or her family, including the ancestor of the person; information relating to a change in name, address, telephone number, or electronic address or identifier of the individual or his or her family; a social security, driver's license, or tax identification number of the individual or a member of his or her family; and other information that could be used to identify the person, including unique biometric data.

(4) "Person" means a person as defined in RCW 9A.04.110.

(5) "Senior" means a person over the age of sixty-five.

(6) "Victim" means a person whose means of identification or financial information has been used or transferred with the intent to commit, or to aid or abet, any unlawful activity.

(7) "Vulnerable individual" means a person:

((i) ~~[(a)]~~) (a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself;

((ii) ~~[(b)]~~) (b) Found incapacitated under chapter 11.88) (b) Who has been placed under a guardianship under RCW 11.130.265 or has been placed under a conservatorship under RCW 11.130.360 RCW;

((iii) ~~[(c)]~~) (c) Who has a developmental disability as defined under RCW 71A.10.020;

((iv) ~~[(d)]~~) (d) Admitted to any facility;

((v) ~~[(e)]~~) (e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW;

((vi) ~~[(f)]~~) (f) Receiving services from an individual provider as defined in RCW 74.39A.240; or

((vii) ~~[(g)]~~) (g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

Sec. 707. RCW 9A.44.010 and 2007 c 20 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another,

whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.

(7) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors;

(b) A person who in the course of his or her employment supervises minors; or

(c) A person who provides welfare, health or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults, including a provider, employee, temporary employee, volunteer, or independent contractor who supplies services to long-term care facilities licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW, but not including a consensual sexual partner.

(9) "Abuse of a supervisory position" means:

(a) To use a direct or indirect threat or promise to exercise authority to the detriment or benefit of a minor; or

(b) To exploit a significant relationship in order to obtain the consent of a minor.

(10) "Person with a developmental disability," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Person with a mental disorder" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020.

(13) "Person with a chemical dependency" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who

is "chemically dependent" as defined in RCW 70.96A.020((4)).

(14) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered under chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide.

(16) "Frail elder or vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself. "Frail elder or vulnerable adult" also includes a person (~~found incapacitated under chapter 11.88 RCW~~) who has been placed under a guardianship under RCW 11.130.265 or a conservatorship under RCW 11.130.360, a person over eighteen years of age who has a developmental disability under chapter 71A.10 RCW, a person admitted to a long-term care facility that is licensed or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services from a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW.

Sec. 708. RCW 11.02.005 and 2018 c 22 s 6 are each amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(2) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(3) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(4) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(5) "Guardian," ~~((or))~~ "limited guardian," "conservator," or "limited conservator" means a personal representative of the person or estate of ~~((an incompetent or disabled))~~ a person (as defined in RCW 11.88.010) who has been placed under a guardianship under RCW 11.130.265 or who has been placed under a conservatorship under RCW 11.130.360 and the term may be used in lieu of "personal representative" wherever required by context.

(6) "Heirs" denotes those persons, including the surviving spouse or surviving domestic partner, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Internal revenue code" means the United States internal revenue code of 1986, as amended or renumbered as of January 1, 2001.

(8) "Issue" means all the lineal descendants of an individual. An adopted individual is a lineal descendant of each of his or her adoptive parents and of all individuals with regard to which each adoptive parent is a lineal descendant. A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent for purposes of this title.

(9) "Net estate" refers to the real and personal property of a

decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(10) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, transfer on death deed, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

(11) "Personal representative" includes executor, administrator, special administrator, and ~~((guardian))~~ conservator or limited ~~((guardian))~~ conservator and special representative.

(12) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(13) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to a decedent, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the decedent who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the decedent but who left issue surviving the decedent; each share of a deceased person in the nearest degree must be divided among those of the deceased person's issue who survive the decedent and have no ancestor then living who is in the line of relationship between them and the decedent, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the decedent.

(14) References to "section 2033A" of the internal revenue code in wills, trust agreements, powers of appointment, beneficiary designations, and other instruments governed by or subject to this title are deemed to refer to the comparable or corresponding provisions of section 2057 of the internal revenue code, as added by section 6006(b) of the internal revenue service restructuring act of 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A "exclusion" are deemed to mean the section 2057 deduction.

(15) "Settlor" has the same meaning as provided for "trustor" in this section.

(16) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the

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term may be used in lieu of "personal representative" wherever required by context.

(17) "Surviving spouse" or "surviving domestic partner" does not include an individual whose marriage to or state registered domestic partnership with the decedent has been terminated, dissolved, or invalidated unless, by virtue of a subsequent marriage or state registered domestic partnership, he or she is married to or in a domestic partnership with the decedent at the time of death. A decree of separation that does not terminate the status of spouses or domestic partners is not a dissolution or invalidation for purposes of this subsection.

(18) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(19) "Trustor" means a person, including a testator, who creates, or contributes property to, a trust.

(20) "Will" means an instrument validly executed as required by RCW 11.12.020.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

Sec. 709. RCW 11.28.185 and 2008 c 6 s 915 are each amended to read as follows:

When the terms of the decedent's will manifest an intent that the personal representative appointed to administer the estate shall not be required to furnish bond or other security, or when the personal representative is the surviving spouse or surviving domestic partner of the decedent and it appears to the court that the entire estate, after provision for expenses and claims of creditors, will be distributable to such spouse or surviving domestic partner, then such personal representative shall not be required to give bond or other security as a condition of appointment. In all cases where a bank or trust company authorized to act as personal representative is appointed as personal representative, no bond shall be required. In all other cases, unless waived by the court, the personal representative shall give such bond or other security, in such amount and with such surety or sureties, as the court may direct.

Every person required to furnish bond must, before receiving letters testamentary or of administration, execute a bond to the state of Washington conditioned that the personal representative shall faithfully execute the duty of the trust according to law.

The court may at any time after appointment of the personal representative require said personal representative to give a bond or additional bond, the same to be conditioned and to be approved as provided in this section; or the court may allow a reduction of the bond upon a proper showing.

In lieu of bond, the court may in its discretion, substitute other security or financial arrangements, such as provided under RCW ~~((11.88.105))~~ 11.130.445, or as the court may deem adequate to protect the assets of the estate.

Sec. 710. RCW 11.76.080 and 2008 c 6 s 806 are each amended to read as follows:

If there be any alleged incapacitated person ~~((as defined in RCW 11.88.010))~~ interested in the estate who has no legally appointed ~~((guardian or limited guardian))~~ conservator or limited conservator under RCW 11.130.360, the court:

(1) At any stage of the proceeding in its discretion and for such purpose or purposes as it shall indicate, may appoint; and

(2) For hearings held under RCW 11.54.010, 11.68.041, 11.68.100, and 11.76.050 or for entry of an order adjudicating testacy or intestacy and heirship when no personal representative is appointed to administer the estate of the decedent, shall appoint some disinterested person as guardian ad litem to represent the

allegedly incapacitated person with reference to any petition, proceeding report, or adjudication of testacy or intestacy without the appointment of a personal representative to administer the estate of decedent in which the alleged incapacitated person may have an interest, who, on behalf of the alleged incapacitated person, may contest the same as any other person interested might contest it, and who shall be allowed by the court reasonable compensation for his or her services: PROVIDED, HOWEVER, That where a surviving spouse or surviving domestic partner is the sole beneficiary under the terms of a will, the court may grant a motion by the personal representative to waive the appointment of a guardian ad litem for a person who is the minor child of the surviving spouse or surviving domestic partner and the decedent and who is incapacitated solely for the reason of his or her being under eighteen years of age.

Sec. 711. RCW 11.86.021 and 2016 c 209 s 402 are each amended to read as follows:

(1) A beneficiary may disclaim an interest in whole or in part, or with reference to specific parts, shares or assets, in the manner provided in RCW 11.86.031.

(2) Likewise, a beneficiary may so disclaim through an agent or attorney so authorized by written instrument.

(3) A personal representative, guardian, attorney-in-fact if authorized under a durable power of attorney under chapter 11.125 RCW, or other legal representative of the estate of a minor, incompetent, or deceased beneficiary, may so disclaim on behalf of the beneficiary, with or without court order, if:

(a) The legal representative deems the disclaimer to be in the best interests of those interested in the estate of the beneficiary and of those who take the disclaimed interest because of the disclaimer, and not detrimental to the best interests of the beneficiary; and

(b) In the case of a ~~((guardian))~~ conservatorship, no order has been issued under ~~((RCW 11.92.140))~~ RCW 11.130.435 determining that the disclaimer is not in the best interests of the beneficiary.

Sec. 712. RCW 11.90.210 and 2009 c 81 s 8 are each amended to read as follows:

This chapter provides the exclusive jurisdictional basis for a court of this state to appoint a guardian or issue a protective order for an adult under ~~((chapters 11.88 and 11.92))~~ chapter 11.130 RCW.

Sec. 713. RCW 11.96A.050 and 2013 c 272 s 3 are each amended to read as follows:

(1) Venue for proceedings pertaining to trusts is:

(a) For testamentary trusts established under wills probated in the state of Washington, in the superior court of the county where the probate of the will is being administered or was completed or, in the alternative, the superior court of the county where any qualified beneficiary of the trust as defined in RCW 11.98.002 resides, the county where any trustee resides or has a place of business, or the county where any real property that is an asset of the trust is located; and

(b) For all other trusts, in the superior court of the county where any qualified beneficiary of the trust as defined in RCW 11.98.002 resides, the county where any trustee resides or has a place of business, or the county where any real property that is an asset of the trust is located. If no county has venue for proceedings pertaining to a trust under the preceding sentence, then in any county.

(2) A party to a proceeding pertaining to a trust may request that venue be changed. If the request is made within four months of the giving of the first notice of a proceeding pertaining to the trust, except for good cause shown, venue must be moved to the county with the strongest connection to the trust as determined by

the court, considering such factors as the residence of a qualified beneficiary of the trust as defined in RCW 11.98.002, the residence or place of business of a trustee, and the location of any real property that is an asset of the trust.

(3) Venue for proceedings subject to chapter ~~((11.88 or 11.92))~~ 11.130 RCW must be determined under the provisions of those chapters.

(4) Venue for proceedings pertaining to the probate of wills, the administration and disposition of a decedent's property, including nonprobate assets, and any other matter not identified in subsection (1), (2), or (3) of this section, must be in any county in the state of Washington that the petitioner selects. A party to a proceeding may request that venue be changed if the request is made within four months of the mailing of the notice of appointment and pendency of probate required by RCW 11.28.237, and except for good cause shown, venue must be moved as follows:

(a) If the decedent was a resident of the state of Washington at the time of death, to the county of the decedent's residence; or

(b) If the decedent was not a resident of the state of Washington at the time of death, to any of the following:

(i) Any county in which any part of the probate estate might be;

(ii) If there are no probate assets, any county where any nonprobate asset might be; or

(iii) The county in which the decedent died.

(5) Once letters testamentary or of administration have been granted in the state of Washington, all orders, settlements, trials, and other proceedings under this title must be had or made in the county in which such letters have been granted unless venue is moved as provided in subsection (4) of this section.

(6) Venue for proceedings pertaining to powers of attorney must be in the superior court of the county of the principal's residence, except for good cause shown.

(7) If venue is moved, an action taken before venue is changed is not invalid because of the venue.

(8) Any request to change venue that is made more than four months after the commencement of the action may be granted in the discretion of the court.

Sec. 714. RCW 11.96A.080 and 1999 c 42 s 301 are each amended to read as follows:

(1) Subject to the provisions of RCW 11.96A.260 through 11.96A.320, any party may have a judicial proceeding for the declaration of rights or legal relations with respect to any matter, as defined by RCW 11.96A.030; the resolution of any other case or controversy that arises under the Revised Code of Washington and references judicial proceedings under this title; or the determination of the persons entitled to notice under RCW 11.96A.110 or 11.96A.120.

(2) The provisions of this chapter apply to disputes arising in connection with estates of ~~((incapacitated persons))~~ individuals subject to conservatorship under RCW 11.130.360 unless otherwise covered by ~~((chapters 11.88 and 11.92))~~ chapter 11.130 RCW. The provisions of this chapter shall not supersede, but shall supplement, any otherwise applicable provisions and procedures contained in this title, including without limitation those contained in chapter 11.20, 11.24, 11.28, 11.40, 11.42, or 11.56 RCW. The provisions of this chapter shall not apply to actions for wrongful death under chapter 4.20 RCW.

Sec. 715. RCW 11.96A.120 and 2013 c 272 s 5 are each amended to read as follows:

(1) Notice to a person who may represent and bind another person under this section has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this section is binding on the person represented unless the person represented objects to the

representation before the consent would otherwise have become effective.

(3) The following limitations on the ability to serve as a virtual representative apply:

(a) A trustor may not represent and bind a beneficiary under this section with respect to the termination and modification of an irrevocable trust; and

(b) Representation of an incapacitated trustor with respect to his or her powers over a trust is subject to the provisions of RCW 11.103.030, and chapters 11.96A~~((, 11.88, and 11.92))~~ and 11.130 RCW.

(4) To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to the particular question or dispute:

(a) A guardian may represent and bind the estate that the guardian controls, subject to chapters 11.96A~~((, 11.88, and 11.92))~~ and 11.130 RCW;

(b) A guardian of the person may represent and bind the incapacitated person if a guardian of the incapacitated person's estate has not been appointed;

(c) An agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

(d) A trustee may represent and bind the beneficiaries of the trust;

(e) A personal representative of a decedent's estate may represent and bind persons interested in the estate; and

(f) A parent may represent and bind the parent's minor or unborn child or children if a guardian for the child or children has not been appointed.

(5) Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented with regard to the particular question or dispute.

(6) Where an interest has been given to persons who comprise a certain class upon the happening of a certain event, the living persons who would constitute the class as of the date the representation is to be determined may virtually represent all other members of the class as of that date, but only to the extent that there is no conflict of interest between the representative and the person(s) represented with regard to the particular question or dispute.

(7) Where an interest has been given to a living person, and the same interest, or a share in it, is to pass to the surviving spouse or surviving domestic partner or to persons who are, or might be, the heirs, issue, or other kindred of that living person or the distributees of the estate of that living person upon the happening of a future event, that living person may virtually represent the surviving spouse or surviving domestic partner, heirs, issue, or other kindred of the person, and the distributees of the estate of the person, but only to the extent that there is no conflict of interest between the representative and the person(s) represented with regard to the particular question or dispute.

(8) Except as otherwise provided in subsection (7) of this section, where an interest has been given to a person or a class of persons, or both, upon the happening of any future event, and the same interest or a share of the interest is to pass to another person or class of persons, or both, upon the happening of an additional future event, the living person or persons who would take the interest upon the happening of the first event may virtually represent the persons and classes of persons who might take on the happening of the additional future event, but only to the extent

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that there is no conflict of interest between the representative and the person(s) represented with regard to the particular question or dispute.

(9) To the extent there is no conflict of interest between the holder of the power of appointment and the persons represented with respect to the particular question or dispute, the holder of a lifetime or testamentary power of appointment may virtually represent and bind persons who are permissible appointees or takers in default (but only to the extent that they are permissible appointees in the case of a limited power of appointment) under the power, and who are not permissible distributees as defined in RCW 11.98.002.

(10) The attorney general may virtually represent and bind a charitable organization if:

(a) The charitable organization is not a qualified beneficiary as defined in RCW 11.98.002 specified in the trust instrument or acting as trustee; or

(b) The charitable organization is a qualified beneficiary, but is not a permissible distributee, as those terms are defined in RCW 11.98.002, and its beneficial interest in the trust is subject to change by the trustor or by a person designated by the trustor.

(11) An action taken by the court is conclusive and binding upon each person receiving actual or constructive notice or who is otherwise represented under this section.

(12) This section is intended to adopt the common law concept of virtual representation. This section supplements the common law relating to the doctrine of virtual representation and may not be construed as limiting the application of that common law doctrine.

Sec. 716. RCW 11.96A.130 and 1999 c 42 s 306 are each amended to read as follows:

Nothing in this chapter eliminates the requirement to give notice to a person who has requested special notice under RCW 11.28.240 or ~~((11.92.150))~~ notice under RCW 11.130.080.

Sec. 717. RCW 11.96A.150 and 2007 c 475 s 5 are each amended to read as follows:

(1) Either the superior court or any court on an appeal may, in its discretion, order costs, including reasonable attorneys' fees, to be awarded to any party: (a) From any party to the proceedings; (b) from the assets of the estate or trust involved in the proceedings; or (c) from any nonprobate asset that is the subject of the proceedings. The court may order the costs, including reasonable attorneys' fees, to be paid in such amount and in such manner as the court determines to be equitable. In exercising its discretion under this section, the court may consider any and all factors that it deems to be relevant and appropriate, which factors may but need not include whether the litigation benefits the estate or trust involved.

(2) This section applies to all proceedings governed by this title, including but not limited to proceedings involving trusts, decedent's estates and properties, and guardianship matters. This section shall not be construed as being limited by any other specific statutory provision providing for the payment of costs, including RCW 11.68.070 and 11.24.050, unless such statute specifically provides otherwise. This section shall apply to matters involving guardians and guardians ad litem ~~((and shall not be limited or controlled by the provisions of RCW 11.88.090(10))).~~

Sec. 718. RCW 11.96A.220 and 1999 c 42 s 402 are each amended to read as follows:

RCW 11.96A.210 through 11.96A.250 shall be applicable to the resolution of any matter, as defined by RCW 11.96A.030, other than matters subject to chapter ~~((11.88 or 11.92))~~ 11.130 RCW, or a trust for a minor or other incapacitated person created at its inception by the judgment or decree of a court unless the

judgment or decree provides that RCW 11.96A.210 through 11.96A.250 shall be applicable. If all parties agree to a resolution of any such matter, then the agreement shall be evidenced by a written agreement signed by all parties. Subject to the provisions of RCW 11.96A.240, the written agreement shall be binding and conclusive on all persons interested in the estate or trust. The agreement shall identify the subject matter of the dispute and the parties. If the agreement or a memorandum of the agreement is to be filed with the court under RCW 11.96A.230, the agreement may, but need not, include provisions specifically addressing jurisdiction, governing law, the waiver of notice of the filing as provided in RCW 11.96A.230, and the discharge of any special representative who has acted with respect to the agreement.

If a party who virtually represents another under RCW 11.96A.120 signs the agreement, then the party's signature constitutes the signature of all persons whom the party virtually represents, and all the virtually represented persons shall be bound by the agreement.

Sec. 719. RCW 11.103.030 and 2016 c 209 s 404 are each amended to read as follows:

(1) Unless the terms of a trust expressly provide that the trust is revocable, the trustor may not revoke or amend the trust.

(2) If a revocable trust is created or funded by more than one trustor and unless the trust agreement provides otherwise:

(a) To the extent the trust consists of community property, the trust may be revoked by either spouse or either domestic partner acting alone but may be amended only by joint action of both spouses or both domestic partners;

(b) To the extent the trust consists of property other than community property, each trustor may revoke or amend the trust with regard to the portion of the trust property attributable to that trustor's contribution;

(c) The character of community property or separate property is unaffected by its transfer to and from a revocable trust; and

(d) Upon the revocation or amendment of the trust by fewer than all of the trustors, the trustee must promptly notify the other trustors of the revocation or amendment.

(3) The trustor may revoke or amend a revocable trust:

(a) By substantial compliance with a method provided in the terms of the trust; or

(b)(i) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

(A) A later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or

(B) A written instrument signed by the trustor evidencing intent to revoke or amend.

(ii) The requirements of chapter 11.11 RCW do not apply to revocation or amendment of a revocable trust under (b)(i) of this subsection.

(4) Upon revocation of a revocable trust, the trustee must deliver the trust property as the trustor directs.

(5) A trustor's powers with respect to the revocation or amendment of a trust or distribution of the property of a trust may be exercised by the trustor's agent under a power of attorney only to the extent specified in the power of attorney document, as provided in RCW 11.125.240 and to the extent consistent with or expressly authorized by the trust agreement.

(6) A ~~((guardian))~~ conservator of the trustor may exercise a trustor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the guardianship pursuant to ~~((RCW 11.92.140))~~ chapter 11.130 RCW.

(7) A trustee who does not know that a trust has been revoked or amended is not liable to the trustor or trustor's successors in

interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

(8) This section does not limit or affect operation of RCW 11.96A.220 through 11.96A.240.

Sec. 720. RCW 11.107.060 and 2017 c 29 s 6 are each amended to read as follows:

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

(a) "Beneficiary with a disability" means a beneficiary of the first trust who the trustee believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who ~~((is incapacitated within the meaning of RCW 11.88.010))~~ has been placed under a guardianship or conservatorship under chapter 11.130 RCW.

(b) "Governmental benefits" means financial aid or services from a state, federal, or other public agency.

(c) "Special needs trust" means a trust the trustee believes would not be considered a resource for purposes of determining whether the beneficiary with a disability is eligible for governmental benefits.

(2) A trustee may exercise the decanting power under RCW 11.107.020 and 11.107.030 over the property of the first trust as if the trustee had authority to distribute principal to a beneficiary with a disability subject to expanded discretion if:

(a) The second trust is a special needs trust that benefits the beneficiary with a disability; and

(b) The trustee determines that exercise of the decanting power will further the purposes of the first trust.

(3) In an exercise of the decanting power under this section, the following rules apply:

(a) The provisions of the second trust for a beneficiary with a disability may:

(i) Meet the medicaid law requirements for an account in a pooled trust for a beneficiary with a disability under 42 U.S.C. Sec. 1369p(d)(4)(C), as amended, including requiring a payback to the state of medicaid expenditures of funds not retained by the pooled trust; or

(ii) Meet the medicaid law requirements for a trust for the sole benefit of a beneficiary with a disability under age sixty-five under 42 U.S.C. Sec. 1369(d)(4)(A), as amended, including requiring a payback to the state of medicaid expenditures.

(b) RCW 11.107.020(1)(a)(iii) does not apply to the interests of the beneficiary with a disability.

(c) Except as affected by any change to the interests of the beneficiary with a disability, the second trusts, in the aggregate, must grant each other beneficiary of the first trust beneficial interests in the second trusts which are substantially similar to the beneficiary's beneficial interests in the first trust unless inconsistent with (a)(i) or (ii) of this subsection (3).

Sec. 721. RCW 11.120.140 and 2016 c 140 s 14 are each amended to read as follows:

(1) Unless otherwise ordered by the court, a guardian or conservator appointed ~~((due to a finding of incapacity under RCW 11.88.010(1)))~~ under chapter 11.130 RCW has the right to access an incapacitated person's digital assets other than the content of electronic communications.

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

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

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

(c) If requested by the custodian:

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

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

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

Sec. 722. RCW 11.125.400 and 2016 c 209 s 217 are each amended to read as follows:

Unless the power of attorney otherwise provides, where language in a power of attorney grants general authority with respect to health care matters:

(1) The agent shall be authorized to act as the principal's personal representative pursuant to the health insurance portability and accountability act, sections 1171 through 1179 of the social security act, 42 U.S.C. Sec. 1320d, as amended, and applicable regulations for all purposes thereunder, including but not limited to accessing and acquiring the principal's health care related information.

(2) The agent shall be authorized to provide informed consent for health care decisions on the principal's behalf. If a principal has appointed more than one agent with authority to make mental health treatment decisions in accordance with a directive under chapter 71.32 RCW, to the extent of any conflict, the most recently appointed agent shall be treated as the principal's agent for mental health treatment decisions unless provided otherwise in either appointment.

(3) Unless he or she is the spouse, state registered domestic partner, father or mother, or adult child or brother or sister of the principal, none of the following persons may act as the agent for the principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility or long-term care facility as defined in RCW 43.190.020 where the principal resides or receives care. Except when the principal has consented in a mental health advance directive executed under chapter 71.32 RCW to inpatient admission or electroconvulsive therapy, this authorization is subject to the same limitations as those that apply to a guardian under ~~((RCW 11.92.043(5) (a) through (e) and 11.92.190))~~ chapter 11.130 RCW.

Sec. 723. RCW 11.125.410 and 2016 c 209 s 218 are each amended to read as follows:

Unless the power of attorney otherwise provides, the following general provisions shall apply to any power of attorney making reference to the care of the principal's minor children:

(1) A parent or guardian, through a power of attorney, may authorize an agent to make health care decisions on behalf of one or more of his or her children, or children for whom he or she is the legal guardian, who are under the age of majority as defined in RCW 26.28.015, to be effective if the child has no other parent or legal representative readily available and authorized to give such consent.

(2) A principal may further nominate a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of making the durable power of attorney or afterwards, to continue during the disability of the principal, during the minority of the child or for any less time by including such a provision in his or her power of attorney.

(3) The authority of any guardian of the person of any minor child shall supersede the authority of a designated agent to make health care decisions for the minor only after such designated guardian has been appointed by the court.

(4) In the event a conflict between the provisions of a will

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nominating a testamentary guardian under ~~((the authority of RCW 11.88.080))~~ chapter 11.130 RCW and the nomination of a guardian under the authority of this statute, the most recent designation shall control.

Sec. 724. RCW 13.32A.160 and 2019 c 124 s 1 are each amended to read as follows:

(1) When a proper child in need of services petition to approve an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140, or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-finding hearing to be held: (A) For a child who resides in a place other than his or her parent's home and other than an out-of-home placement, within five calendar days unless the last calendar day is a Saturday, Sunday, or holiday, in which case the hearing shall be held on the preceding judicial day; or (B) for a child living at home or in an out-of-home placement, within ten days; and (ii) notify the parent, child, and the department of such date; (b) notify the parent of the right to be represented by counsel and, if indigent, to have counsel appointed for him or her by the court; (c) appoint legal counsel for the child; (d) inform the child and his or her parent of the legal consequences of the court approving or disapproving a child in need of services petition; (e) notify the parents of their rights under this chapter and chapters ~~((11.88))~~ 11.130, 13.34, and 71.34 RCW, including the right to file an at-risk youth petition, the right to submit an application for admission of their child to a treatment facility for alcohol, chemical dependency, or mental health treatment, and the right to file a guardianship petition; and (f) notify all parties, including the department, of their right to present evidence at the fact-finding hearing.

(2) Upon filing of a child in need of services petition, the child may be placed, if not already placed, by the department in a crisis residential center, HOPE center, foster family home, group home facility licensed under chapter 74.15 RCW, or any other suitable residence to be determined by the department. The court may place a child in a crisis residential center for a temporary out-of-home placement as long as the requirements of RCW 13.32A.125 are met.

(3) If the child has been placed in a foster family home or group care facility under chapter 74.15 RCW, the child shall remain there, or in any other suitable residence as determined by the department, pending resolution of the petition by the court. Any placement may be reviewed by the court within three judicial days upon the request of the juvenile or the juvenile's parent.

Sec. 725. RCW 13.34.270 and 2019 c 470 s 1 are each amended to read as follows:

(1) Whenever the department of social and health services places a child with a developmental disability in out-of-home care pursuant to RCW 74.13.350, the department shall obtain a judicial determination within one hundred eighty days of the placement that continued placement is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination is required.

(2) To obtain the judicial determination, the department shall file a petition alleging that there is located or residing within the county a child who has a developmental disability and that the child has been placed in out-of-home care pursuant to RCW 74.13.350. The petition shall request that the court review the child's placement, make a determination whether continued placement is in the best interests of the child, and take other necessary action as provided in this section. The petition shall contain the name, date of birth, and residence of the child and the names and residences of the child's parent or legal guardian who has agreed to the child's placement in out-of-home care. Reasonable attempts shall be made by the department to ascertain and set forth in the petition the identity, location, and custodial

status of any parent who is not a party to the placement agreement and why that parent cannot assume custody of the child.

(3) Upon filing of the petition, the clerk of the court shall schedule the petition for a hearing to be held no later than fourteen calendar days after the petition has been filed. The department shall provide notification of the time, date, and purpose of the hearing to the parent or legal guardian who has agreed to the child's placement in out-of-home care. The department shall also make reasonable attempts to notify any parent who is not a party to the placement agreement, if the parent's identity and location is known. Notification under this section may be given by the most expedient means, including but not limited to, mail, personal service, and telephone.

(4) The court shall appoint a guardian ad litem for the child as provided in RCW 13.34.100, unless the court for good cause finds the appointment unnecessary.

(5) Permanency planning hearings shall be held as provided in this section. At the hearing, the court shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

(a) For children age ten and under, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order under chapter ~~((11.88))~~ 11.130 RCW has not previously been entered. The hearing shall take place no later than twelve months following commencement of the child's current placement episode.

(b) For children over age ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order under chapter ~~((11.88))~~ 11.130 RCW has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.

(c) No later than ten working days before the permanency planning hearing, the department shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties. The plan shall be directed toward securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent or legal guardian; adoption; guardianship; or long-term out-of-home care, until the child is age eighteen, with a written agreement between the parties and the child's care provider.

(d) If a goal of long-term out-of-home care has been achieved before the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remains appropriate. In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal.

(e) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the voluntary placement agreement is terminated.

(6) Any party to the voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian, unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The department shall notify the

court upon termination of the voluntary placement agreement and return of the child to the care of the child's parent or legal guardian. Whenever a voluntary placement agreement is terminated, an action under this section shall be dismissed.

(7) When state or federal funds are expended for the care and maintenance of a child with a developmental disability, placed in care as a result of an action under this chapter, the department shall refer the case to the division of child support, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child.

(8) This section does not prevent the department of children, youth, and families from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030. An action filed under this section shall be dismissed upon the filing of a dependency petition regarding a child who is the subject of the action under this section.

(9) For purposes of this section, unless the context clearly requires otherwise, "department" means the department of social and health services.

Sec. 726. RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and amended to read as follows:

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

(1) "Adult day services" means care and services provided to a nonresident individual by the assisted living facility on the assisted living facility premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

(2) "Assisted living facility" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000, may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility. "Assisted living facility" shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of housing and urban development.

(3) "Basic services" means housekeeping services, meals, nutritious snacks, laundry, and activities.

(4) "Department" means the state department of social and health services.

(5) "Domiciliary care" means: Assistance with activities of daily living provided by the assisted living facility either directly or indirectly; or health support services, if provided directly or indirectly by the assisted living facility; or intermittent nursing services, if provided directly or indirectly by the assisted living facility.

(6) "General responsibility for the safety and well-being of the resident" means the provision of the following: Prescribed general low sodium diets; prescribed general diabetic diets; prescribed mechanical soft foods; emergency assistance; monitoring of the resident; arranging health care appointments with outside health care providers and reminding residents of such appointments as necessary; coordinating health care services with outside health care providers consistent with RCW 18.20.380; assisting the resident to obtain and maintain glasses,

hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices; observation of the resident for changes in overall functioning; blood pressure checks as scheduled; responding appropriately when there are observable or reported changes in the resident's physical, mental, or emotional functioning; or medication assistance as permitted under RCW 69.41.085 and as defined in RCW 69.41.010.

(7) "Legal representative" means a person or persons identified in RCW 7.70.065 who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident.

(8) "Nonresident individual" means a person who resides in independent senior housing, independent living units in continuing care retirement communities, or in other similar living environments or in an unlicensed room located within an assisted living facility. Nothing in this chapter prohibits nonresidents from receiving one or more of the services listed in RCW 18.20.030(5) or requires licensure as an assisted living facility when one or more of the services listed in RCW 18.20.030(5) are provided to nonresidents. A nonresident individual may not receive domiciliary care, as defined in this chapter, directly or indirectly by the assisted living facility and may not receive the items and services listed in subsection (6) of this section, except during the time the person is receiving adult day services as defined in this section.

(9) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(10) "Resident" means an individual who is not related by blood or marriage to the operator of the assisted living facility, and by reason of age or disability, chooses to reside in the assisted living facility and receives basic services and one or more of the services listed under general responsibility for the safety and well-being of the resident and may receive domiciliary care or respite care provided directly or indirectly by the assisted living facility and shall be permitted to receive hospice care through an outside service provider when arranged by the resident or the resident's legal representative under RCW 18.20.380.

(11) "Resident applicant" means an individual who is seeking admission to a licensed assisted living facility and who has completed and signed an application for admission, or such application for admission has been completed and signed in their behalf by their legal representative if any, and if not, then the designated representative if any.

(12) "Resident's representative" means a person designated voluntarily by a competent resident, in writing, to act in the resident's behalf concerning the care and services provided by the assisted living facility and to receive information from the assisted living facility, if there is no legal representative. The resident's competence shall be determined using the criteria in ~~((RCW 11.88.010(1)(e)))~~ chapter 11.130 RCW. The resident's representative may not be affiliated with the licensee, assisted living facility, or management company, unless the affiliated person is a family member of the resident. The resident's representative shall not have authority to act on behalf of the resident once the resident is no longer competent.

(13) "Secretary" means the secretary of social and health services.

Sec. 727. RCW 25.15.131 and 2015 c 188 s 28 are each amended to read as follows:

(1) A person is dissociated as a member of a limited liability company upon the occurrence of one or more of the following events:

(a) The member dies or withdraws by voluntary act from the

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limited liability company as provided in subsection (2) of this section;

(b) The transfer of all of the member's transferable interest in the limited liability company;

(c) The member is removed as a member in accordance with the limited liability company agreement;

(d) The occurrence of an event upon which the member ceases to be a member under the limited liability company agreement;

(e) The person is a corporation, limited liability company, general partnership, or limited partnership, and the person is removed as a member by the unanimous consent of the other members, which may be done under this subsection (1)(e) only if:

(i) The person has filed articles of dissolution, a certificate of dissolution or the equivalent, or the person has been administratively or judicially dissolved, or its right to conduct business has been suspended or revoked by the jurisdiction of its incorporation, or the person has otherwise been dissolved; and

(ii) The dissolution has not been revoked or the person or its right to conduct business has not been reinstated within ninety days after the limited liability company notifies the person that it will be removed as a member for any reason identified in (e)(i) of this subsection;

(f) Unless all other members otherwise agree at the time, the member (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of the nature described in (f)(i) through (iv) of this subsection; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties;

(g) Unless all other members otherwise agree at the time, if within one hundred twenty days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within ninety days after the expiration of any stay, the appointment is not vacated; or

(h) Unless all other members otherwise agree at the time, in the case of a member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the member (~~(incapacitated, as used and defined under chapter 11.88 RCW, as to his or her estate)~~ as being subject to a conservatorship under RCW 11.130.360.)

(2) A member may withdraw from a limited liability company at the time or upon the happening of events specified in and in accordance with the limited liability company agreement. If the limited liability company agreement does not specify the time or the events upon the happening of which a member may withdraw, a member may not withdraw from the limited liability company without the written consent of all other members.

(3) When a person is dissociated as a member of a limited liability company:

(a) The person's right to participate as a member in the management and conduct of the limited liability company's activities terminates;

(b) If the limited liability company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(c) Subject to subsection (5) of this section, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(4) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the limited liability company or the other members which the person incurred while a member.

(5) If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in RCW 25.15.251 and, for the purposes of settling the estate, the rights of a current member under RCW 25.15.136.

Sec. 728. RCW 29A.08.515 and 2004 c 267 s 125 are each amended to read as follows:

Upon receiving official notice that a court has imposed a guardianship for ~~((an incapacitated))~~ a person under RCW 11.130.265 and has determined that the person is incompetent for the purpose of rationally exercising the right to vote, ~~((under chapter 11.88 RCW,))~~ if the ~~((incapacitated))~~ person subject to guardianship is a registered voter in the county, the county auditor shall cancel ~~((the incapacitated))~~ that person's voter registration.

Sec. 729. RCW 70.58A.010 and 2019 c 148 s 2 are each amended to read as follows:

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

(1) "Adult" means a person who is at least eighteen years of age, or an emancipated minor under chapter 13.64 RCW.

(2) "Amendment" means a change to a certification item on the vital record.

(3) "Authorized representative" means a person permitted to receive a certification who is:

(a) Identified in a notarized statement signed by a qualified applicant; or

(b) An agent identified in a power of attorney as defined in chapter 11.125 RCW.

(4) "Certification" means the document, in either paper or electronic format, containing all or part of the information contained in the original vital record from which the document is derived, and is issued from the central vital records system. A certification includes an attestation by the state or local registrar to the accuracy of information, and has the full force and effect of the original vital record.

(5) "Certification item" means any item of information that appears on certifications.

(6) "Coroner" means the person elected or appointed in a county under chapter 36.16 RCW to serve as the county coroner and fulfill the responsibilities established under chapter 36.24 RCW.

(7) "Cremated remains" has the same meaning as "cremated human remains" in chapter 68.04 RCW.

(8) "Delayed report of live birth" means the report submitted to the department for the purpose of registering the live birth of a person born in state that was not registered within one year of the date of live birth.

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

(10) "Domestic partner" means a party to a state registered domestic partnership established under chapter 26.60 RCW.

(11) "Facility" means any licensed establishment, public or private, located in state, which provides inpatient or outpatient medical, surgical, or diagnostic care or treatment; or nursing, custodial, or domiciliary care. The term also includes

establishments to which persons are committed by law including, but not limited to:

(a) Mental illness detention facilities designated to assess, diagnose, and treat individuals detained or committed, under chapter 71.05 RCW;

(b) City and county jails;

(c) State department of corrections facilities; and

(d) Juvenile correction centers governed by Title 72 RCW.

(12) "Fetal death" means any product of conception that shows no evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles after complete expulsion or extraction from the individual who gave birth that is not an induced termination of pregnancy and:

(a) Has completed twenty or more weeks of gestation as calculated from the date the last menstrual period of the individual who gave birth began, to the date of expulsion or extraction; or

(b) Weighs three hundred fifty grams or more, if weeks of gestation are not known.

(13) "Final disposition" means the burial, interment, entombment, cremation, removal from the state, or other manner of disposing of human remains as authorized under chapter 68.50 RCW.

(14) "Funeral director" means a person licensed under chapter 18.39 RCW as a funeral director.

(15) "Funeral establishment" means a place of business licensed under chapter 18.39 RCW as a funeral establishment.

(16) "Government agencies" include state boards, commissions, committees, departments, educational institutions, or other state agencies which are created by or pursuant to statute, other than courts and the legislature; county or city agencies, United States federal agencies, and federally recognized tribes and tribal organizations.

(17) "Human remains" means the body of a deceased person, includes the body in any stage of decomposition, and includes cremated human remains, but does not include human remains that are or were at any time under the jurisdiction of the state physical anthropologist under chapter 27.44 RCW.

(18) "Individual" means a natural person.

(19) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with an intention other than to produce a live-born infant, and which does not result in a live birth.

(20) "Informational copy" means a birth or death record issued from the central vital records system, containing all or part of the information contained in the original vital record from which the document is derived, and indicating it cannot be used for legal purposes on its face.

(21) "Legal guardian" means a person who serves as a guardian for the purpose of either legal or custodial matters, or both, relating to the person for whom the guardian is appointed. The term legal guardian includes, but is not limited to, guardians appointed pursuant to chapters ~~((11.88))~~ 11.130 and 13.36 RCW.

(22) "Legal representative" means a licensed attorney representing either the subject of the record or qualified applicant.

(23) "Live birth" means the complete expulsion or extraction of a product of human conception from the individual who gave birth, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(24) "Local health officer" has the same meaning as in chapter 70.05 RCW.

(25) "Medical certifier" for a death or fetal death means an individual required to attest to the cause of death information provided on a report of death or fetal death. Each individual

certifying cause of death or fetal death may certify cause of death only as permitted by that individual's professional scope of practice. These individuals include:

(a) A physician, physician's assistant, or an advanced registered nurse practitioner last in attendance at death or who treated the decedent through examination, medical advice, or medications within the twelve months preceding the death;

(b) A midwife, only in cases of fetal death; and

(c) A physician performing an autopsy, when the decedent was not treated within the last twelve months and the person died a natural death.

(26) "Medical examiner" means the person appointed under chapter 36.24 RCW to fulfill the responsibilities established under chapter 36.24 RCW.

(27) "Midwife" means a person licensed to practice midwifery pursuant to chapter 18.50 RCW.

(28) "Physician" means a person licensed to practice medicine, naturopathy, or osteopathy pursuant to Title 18 RCW.

(29) "Registration" or "register" means the process by which a report is approved and incorporated as a vital record into the vital records system.

(30) "Registration date" means the month, day, and year a report is incorporated into the vital records system.

(31) "Report" means an electronic or paper document containing information related to a vital life event for the purpose of registering the vital life event.

(32) "Sealed record" means the original record of a vital life event and the evidence submitted to support a change to the original record.

(33) "Secretary" means the secretary of the department of health.

(34) "State" means Washington state unless otherwise specified.

(35) "State registrar" means the person appointed by the secretary to administer the vital records system under RCW 70.58A.030.

(36) "Territory of the United States" means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands.

(37) "Vital life event" means a birth, death, fetal death, marriage, dissolution of marriage, dissolution of domestic partnership, declaration of invalidity of marriage, declaration of invalidity of domestic partnership, and legal separation.

(38) "Vital record" or "record" means a report of a vital life event that has been registered and supporting documentation.

(39) "Vital records system" means the statewide system created, operated, and maintained by the department under this chapter.

(40) "Vital statistics" means the aggregated data derived from vital records, including related reports, and supporting documentation.

Sec. 730. RCW 70.97.040 and 2013 c 23 s 179 are each amended to read as follows:

(1)(a) Every person who is a resident of an enhanced services facility shall be entitled to all the rights set forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall retain all rights not denied him or her under these chapters.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, chemical dependency disorder, or both, under this chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or ~~((11.88))~~ 11.130 RCW.

(c) At the time of his or her treatment planning meeting, every

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resident of an enhanced services facility shall be given a written statement setting forth the substance of this section. The department shall by rule develop a statement and process for informing residents of their rights in a manner that is likely to be understood by the resident.

(2) Every resident of an enhanced services facility shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(6) Insofar as danger to the person or others is not created, each resident of an enhanced services facility shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.215 or 71.05.217, or the performance of electroconvulsant therapy, or surgery, except emergency lifesaving surgery, unless ordered by a court under RCW 71.05.217;

(h) To discuss and actively participate in treatment plans and decisions with professional persons;

(i) Not to have psychosurgery performed on him or her under any circumstances;

(j) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue; and

(k) To complain about rights violations or conditions and request the assistance of a mental health ombuds or representative of Washington protection and advocacy. The facility may not prohibit or interfere with a resident's decision to consult with an advocate of his or her choice.

(7) Nothing contained in this chapter shall prohibit a resident from petitioning by writ of habeas corpus for release.

(8) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or active supervision by the department of corrections.

(9) A person has a right to refuse placement, except where

subject to commitment, in an enhanced services facility. No person shall be denied other department services solely on the grounds that he or she has made such a refusal.

(10) A person has a right to appeal the decision of the department that he or she is eligible for placement at an enhanced services facility, and shall be given notice of the right to appeal in a format that is accessible to the person with instructions regarding what to do if the person wants to appeal.

Sec. 731. RCW 71.05.360 and 2019 c 446 s 13 are each amended to read as follows:

(1)(a) Every person involuntarily detained or committed under the provisions of this chapter shall be entitled to all the rights set forth in this chapter, which shall be prominently posted in the facility, and shall retain all rights not denied him or her under this chapter except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license if the person is committed under RCW 71.05.240 or 71.05.320 for mental health treatment.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder or substance use disorder, under this chapter or any prior laws of this state dealing with mental illness or substance use disorders. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or ~~((41-88))~~ 11.130 RCW.

(c) Any person who leaves a public or private agency following evaluation or treatment for a mental disorder or substance use disorder shall be given a written statement setting forth the substance of this section.

(2) Each person involuntarily detained or committed pursuant to this chapter shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person qualified to provide such services.

(5) Whenever any person is detained for evaluation and treatment pursuant to this chapter, both the person and, if possible, a responsible member of his or her immediate family, personal representative, guardian, or conservator, if any, shall be advised as soon as possible in writing or orally, by the officer or person taking him or her into custody or by personnel of the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program where the person is detained that unless the person is released or voluntarily admits himself or herself for treatment within seventy-two hours of the initial detention:

(a) A judicial hearing in a superior court, either by a judge or court commissioner thereof, shall be held not more than seventy-two hours after the initial detention to determine whether there is probable cause to detain the person after the seventy-two hours have expired for up to an additional fourteen days without further automatic hearing for the reason that the person is a person whose mental disorder or substance use disorder presents a likelihood of serious harm or that the person is gravely disabled;

(b) The person has a right to communicate immediately with an attorney; has a right to have an attorney appointed to represent him or her before and at the probable cause hearing if he or she is indigent; and has the right to be told the name and address of the attorney that the mental health professional has designated

pursuant to this chapter;

(c) The person has the right to remain silent and that any statement he or she makes may be used against him or her;

(d) The person has the right to present evidence and to cross-examine witnesses who testify against him or her at the probable cause hearing; and

(e) The person has the right to refuse psychiatric medications, including antipsychotic medication beginning twenty-four hours prior to the probable cause hearing.

(6) When proceedings are initiated under RCW 71.05.153, no later than twelve hours after such person is admitted to the evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program the personnel of the facility or the designated crisis responder shall serve on such person a copy of the petition for initial detention and the name, business address, and phone number of the designated attorney and shall forthwith commence service of a copy of the petition for initial detention on the designated attorney.

(7) The judicial hearing described in subsection (5) of this section is hereby authorized, and shall be held according to the provisions of subsection (5) of this section and rules promulgated by the supreme court.

(8) At the probable cause hearing the detained person shall have the following rights in addition to the rights previously specified:

- (a) To present evidence on his or her behalf;
- (b) To cross-examine witnesses who testify against him or her;
- (c) To be proceeded against by the rules of evidence;
- (d) To remain silent;
- (e) To view and copy all petitions and reports in the court file.

(9) Privileges between patients and physicians, physician assistants, psychologists, or psychiatric advanced registered nurse practitioners are deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under this chapter, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

The waiver of a privilege under this section is limited to records or testimony relevant to evaluation of the detained person for purposes of a proceeding under this chapter. Upon motion by the detained person or on its own motion, the court shall examine a record or testimony sought by a petitioner to determine whether it is within the scope of the waiver.

The record maker shall not be required to testify in order to introduce medical or psychological records of the detained person so long as the requirements of RCW 5.45.020 are met except that portions of the record which contain opinions as to the detained person's mental state must be deleted from such records unless the person making such conclusions is available for cross-examination.

(10) Insofar as danger to the person or others is not created, each person involuntarily detained, treated in a less restrictive alternative course of treatment, or committed for treatment and evaluation pursuant to this chapter shall have, in addition to other rights not specifically withheld by law, the following rights:

- (a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;
- (b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;
- (c) To have access to individual storage space for his or her private use;
- (d) To have visitors at reasonable times;
- (e) To have reasonable access to a telephone, both to make and

receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) To discuss treatment plans and decisions with professional persons;

(h) Not to consent to the administration of antipsychotic medications and not to thereafter be administered antipsychotic medications unless ordered by a court under RCW 71.05.217 or pursuant to an administrative hearing under RCW 71.05.215;

(i) Not to consent to the performance of electroconvulsant therapy or surgery, except emergency lifesaving surgery, unless ordered by a court under RCW 71.05.217;

(j) Not to have psychosurgery performed on him or her under any circumstances;

(k) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue.

(11) Every person involuntarily detained shall immediately be informed of his or her right to a hearing to review the legality of his or her detention and of his or her right to counsel, by the professional person in charge of the facility providing evaluation and treatment, or his or her designee, and, when appropriate, by the court. If the person so elects, the court shall immediately appoint an attorney to assist him or her.

(12) A person challenging his or her detention or his or her attorney shall have the right to designate and have the court appoint a reasonably available independent physician, physician assistant, psychiatric advanced registered nurse practitioner, or other professional person to examine the person detained, the results of which examination may be used in the proceeding. The person shall, if he or she is financially able, bear the cost of such expert examination, otherwise such expert examination shall be at public expense.

(13) Nothing contained in this chapter shall prohibit the patient from petitioning by writ of habeas corpus for release.

(14) Nothing in this chapter shall prohibit a person committed on or prior to January 1, 1974, from exercising a right available to him or her at or prior to January 1, 1974, for obtaining release from confinement.

(15) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or an active condition of supervision by the department of corrections.

Sec. 732. RCW 71.32.020 and 2016 c 209 s 407 are each amended to read as follows:

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

(1) "Adult" means any individual who has attained the age of majority or is an emancipated minor.

(2) "Agent" has the same meaning as an attorney-in-fact or agent as provided in chapter 11.125 RCW.

(3) "Capacity" means that an adult has not been found to be incapacitated pursuant to this chapter or (~~RCW 11.88.010(1)(e))~~ subject to a guardianship under RCW 11.130.265.

(4) "Court" means a superior court under chapter 2.08 RCW.

(5) "Health care facility" means a hospital, as defined in RCW 70.41.020; an institution, as defined in RCW 71.12.455; a state hospital, as defined in RCW 72.23.010; a nursing home, as defined in RCW 18.51.010; or a clinic that is part of a community mental health service delivery system, as defined in RCW 71.24.025.

(6) "Health care provider" means an osteopathic physician or osteopathic physician's assistant licensed under chapter 18.57 or 18.57A RCW, a physician or physician's assistant licensed under

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chapter 18.71 or 18.71A RCW, or an advanced registered nurse practitioner licensed under RCW 18.79.050.

(7) "Incapacitated" means an adult who: (a) Is unable to understand the nature, character, and anticipated results of proposed treatment or alternatives; understand the recognized serious possible risks, complications, and anticipated benefits in treatments and alternatives, including nontreatment; or communicate his or her understanding or treatment decisions; or (b) has been found to be ~~((incompetent pursuant to RCW 11.88.010(1)(e)))~~ subject to a guardianship under RCW 11.130.265.

(8) "Informed consent" means consent that is given after the person: (a) Is provided with a description of the nature, character, and anticipated results of proposed treatments and alternatives, and the recognized serious possible risks, complications, and anticipated benefits in the treatments and alternatives, including nontreatment, in language that the person can reasonably be expected to understand; or (b) elects not to be given the information included in (a) of this subsection.

(9) "Long-term care facility" has the same meaning as defined in RCW 43.190.020.

(10) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(11) "Mental health advance directive" or "directive" means a written document in which the principal makes a declaration of instructions or preferences or appoints an agent to make decisions on behalf of the principal regarding the principal's mental health treatment, or both, and that is consistent with the provisions of this chapter.

(12) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(13) "Principal" means an adult who has executed a mental health advance directive.

(14) "Professional person" means a mental health professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of chapter 71.05 RCW.

(15) "Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

Sec. 733. RCW 71A.16.030 and 1998 c 216 s 4 are each amended to read as follows:

~~(1) ((The department will develop an outreach program to ensure that any eligible person with developmental disabilities services in homes, the community, and residential habilitation centers will be made aware of these services. This subsection (1) expires June 30, 2003.~~

~~(2))~~ The secretary shall establish a single procedure for persons to apply for a determination of eligibility for services provided to persons with developmental disabilities.

~~((3) Until June 30, 2003, the procedure set out under subsection (1) of this section must require that all applicants and all persons with developmental disabilities currently receiving services from the division of developmental disabilities within the department be given notice of the existence and availability of residential habilitation center and community support services. For genuine choice to exist, people must know what the options are. Available options must be clearly explained, with services customized to fit the unique needs and circumstances of developmentally disabled clients and their families. Choice of providers and design of services and supports will be determined by the individual in conjunction with the department. When the~~

~~person cannot make these choices, the person's legal guardian may make them, consistent with chapter 11.88 or 11.92 RCW. This subsection expires June 30, 2003.~~

~~(4))~~ (2) An application may be submitted by a person with a developmental disability, by the legal representative of a person with a developmental disability, or by any other person who is authorized by rule of the secretary to submit an application.

Sec. 734. RCW 73.36.050 and 1994 c 147 s 4 are each amended to read as follows:

(1) A petition for the appointment of a guardian may be filed by any relative or friend of the ward or by any person who is authorized by law to file such a petition. If there is no person so authorized or if the person so authorized refuses or fails to file such a petition within thirty days after mailing of notice by the veterans administration to the last known address of the person, if any, indicating the necessity for the same, a petition for appointment may be filed by any resident of this state.

(2) The petition for appointment shall set forth the name, age, place of residence of the ward, the name and place of residence of the nearest relative, if known, and the fact that the ward is entitled to receive benefits payable by or through the veterans administration and shall set forth the amount of moneys then due and the amount of probable future payments.

(3) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation and address of the proposed guardian and if the nominee is a natural person, the number of wards for whom the nominee is presently acting as guardian. Notwithstanding any law as to priority of persons entitled to appointment, or the nomination in the petition, the court may appoint some other individual or a bank or trust company as guardian, if the court determines it is for the best interest of the ward.

(4) In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent by the veterans administration on examination in accordance with the laws and regulations governing the veterans administration.

(5) All proceedings under this chapter shall be governed by the provisions of ~~((chapters 11.88 and 11.92))~~ chapter 11.130 RCW which shall prevail over any conflicting provisions of this chapter.

Sec. 735. RCW 74.34.020 and 2019 c 325 s 5030 are each amended to read as follows:

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program

authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) "Mental abuse" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(5) "Department" means the department of social and health services.

(6) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

(7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(8) "Financial institution" has the same meaning as in RCW 30A.22.040 and 30A.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(9) "Hospital" means a facility licensed under chapter 70.41 or 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

~~(10) ("Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).~~

~~(11) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.~~

~~(12) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.~~

~~(13) (a) "Isolate" or "isolation" means to restrict a vulnerable adult's ability to communicate, visit, interact, or otherwise associate with persons of his or her choosing. Isolation may be evidenced by acts including but not limited to:~~

~~(i) Acts that prevent a vulnerable adult from sending, making, or receiving his or her personal mail, electronic communications, or telephone calls; or~~

~~(ii) Acts that prevent or obstruct the vulnerable adult from meeting with others, such as telling a prospective visitor or caller that a vulnerable adult is not present, or does not wish contact, where the statement is contrary to the express wishes of the vulnerable adult.~~

~~(b) The term "isolate" or "isolation" may not be construed in a manner that prevents a guardian or limited guardian from performing his or her fiduciary obligations under chapter 11.130 RCW or prevents a hospital or facility from providing treatment consistent with the standard of care for delivery of health services.~~

~~(14) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.~~

~~(15) "Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.~~

~~(16) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.~~

~~(17) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.~~

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~~((18))~~ (17) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

~~((19))~~ (18) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

~~((20))~~ (19) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

~~((21))~~ (20) "Social worker" means:

- (a) A social worker as defined in RCW 18.320.010(2); or
- (b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

~~((22))~~ (21) "Vulnerable adult" includes a person:

- (a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or
- (b) ~~((Found incapacitated under chapter 11.88 RCW))~~ Subject to a guardianship under RCW 11.130.265 or adult subject to conservatorship under RCW 11.130.360; or
- (c) Who has a developmental disability as defined under RCW 71A.10.020; or
- (d) Admitted to any facility; or
- (e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or
- (f) Receiving services from an individual provider; or
- (g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

~~((23))~~ (22) "Vulnerable adult advocacy team" means a team of three or more persons who coordinate a multidisciplinary process, in compliance with chapter 266, Laws of 2017 and the protocol governed by RCW 74.34.320, for preventing, identifying, investigating, prosecuting, and providing services related to abuse, neglect, or financial exploitation of vulnerable adults.

Sec. 736. RCW 74.34.067 and 2013 c 263 s 3 are each amended to read as follows:

(1) Where appropriate, an investigation by the department may include a private interview with the vulnerable adult regarding the alleged abandonment, abuse, financial exploitation, neglect, or self-neglect.

(2) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the vulnerable adult or adults harmed, and, consistent with the protection of the vulnerable adult shall

interview facility staff, any available independent sources of relevant information, including if appropriate the family members of the vulnerable adult.

(3) The department may conduct ongoing case planning and consultation with: (a) Those persons or agencies required to report under this chapter or submit a report under this chapter; (b) consultants designated by the department; and (c) designated representatives of Washington Indian tribes if client information exchanged is pertinent to cases under investigation or the provision of protective services. Information considered privileged by statute and not directly related to reports required by this chapter must not be divulged without a valid written waiver of the privilege.

(4) The department shall prepare and keep on file a report of each investigation conducted by the department for a period of time in accordance with policies established by the department.

(5) If the department has reason to believe that the vulnerable adult has suffered from abandonment, abuse, financial exploitation, neglect, or self-neglect, and lacks the ability or capacity to consent, and needs the protection of a guardian, the department may bring a guardianship ~~((action))~~, conservatorship, or other protective proceedings under chapter ~~((11.88))~~ 11.130 RCW.

(6) For purposes consistent with this chapter, the department, the certified professional guardian board, and the office of public guardianship may share information contained in reports and investigations of the abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. This information may be used solely for (a) recruiting or appointing appropriate guardians and (b) monitoring, or when appropriate, disciplining certified professional or public guardians. Reports of abuse, abandonment, neglect, self-neglect, and financial exploitation are confidential under RCW 74.34.095 and other laws, and secondary disclosure of information shared under this section is prohibited.

(7) When the investigation is completed and the department determines that an incident of abandonment, abuse, financial exploitation, neglect, or self-neglect has occurred, the department shall inform the vulnerable adult of their right to refuse protective services, and ensure that, if necessary, appropriate protective services are provided to the vulnerable adult, with the consent of the vulnerable adult. The vulnerable adult has the right to withdraw or refuse protective services.

(8) The department's adult protective services division may enter into agreements with federally recognized tribes to investigate reports of abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults on property over which a federally recognized tribe has exclusive jurisdiction. If the department has information that abandonment, abuse, financial exploitation, or neglect is criminal or is placing a vulnerable adult on tribal property at potential risk of personal or financial harm, the department may notify tribal law enforcement or another tribal representative specified by the tribe. Upon receipt of the notification, the tribe may assume jurisdiction of the matter. Neither the department nor its employees may participate in the investigation after the tribe assumes jurisdiction. The department, its officers, and its employees are not liable for any action or inaction of the tribe or for any harm to the alleged victim, the person against whom the allegations were made, or other parties that occurs after the tribe assumes jurisdiction. Nothing in this section limits the department's jurisdiction and authority over facilities or entities that the department licenses or certifies under federal or state law.

(9) The department may photograph a vulnerable adult or their environment for the purpose of providing documentary evidence of the physical condition of the vulnerable adult or his or her

environment. When photographing the vulnerable adult, the department shall obtain permission from the vulnerable adult or his or her legal representative unless immediate photographing is necessary to preserve evidence. However, if the legal representative is alleged to have abused, neglected, abandoned, or exploited the vulnerable adult, consent from the legal representative is not necessary. No such consent is necessary when photographing the physical environment.

(10) When the investigation is complete and the department determines that the incident of abandonment, abuse, financial exploitation, or neglect has occurred, the department shall inform the facility in which the incident occurred, consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants.

Sec. 737. RCW 74.34.135 and 2007 c 312 s 9 are each amended to read as follows:

(1) When a petition for protection under RCW 74.34.110 is filed by someone other than the vulnerable adult or the vulnerable adult's ~~((full))~~ guardian ~~((over either the person or the estate))~~, conservator, or person acting under a protective arrangement, or both, and the vulnerable adult for whom protection is sought advises the court at the hearing that he or she does not want all or part of the protection sought in the petition, then the court may dismiss the petition or the provisions that the vulnerable adult objects to and any protection order issued under RCW 74.34.120 or 74.34.130, or the court may take additional testimony or evidence, or order additional evidentiary hearings to determine whether the vulnerable adult is unable, due to incapacity, undue influence, or duress, to protect his or her person or estate in connection with the issues raised in the petition or order. If an additional evidentiary hearing is ordered and the court determines that there is reason to believe that there is a genuine issue about whether the vulnerable adult is unable to protect his or her person or estate in connection with the issues raised in the petition or order, the court may issue a temporary order for protection of the vulnerable adult pending a decision after the evidentiary hearing.

(2) An evidentiary hearing on the issue of whether the vulnerable adult is unable, due to incapacity, undue influence, or duress, to protect his or her person or estate in connection with the issues raised in the petition or order, shall be held within fourteen days of entry of the temporary order for protection under subsection (1) of this section. If the court did not enter a temporary order for protection, the evidentiary hearing shall be held within fourteen days of the prior hearing on the petition. Notice of the time and place of the evidentiary hearing shall be personally served upon the vulnerable adult and the respondent not less than six court days before the hearing. When good faith attempts to personally serve the vulnerable adult and the respondent have been unsuccessful, the court shall permit service by mail, or by publication if the court determines that personal service and service by mail cannot be obtained. If timely service cannot be made, the court may set a new hearing date. A hearing under this subsection is not necessary if the vulnerable adult has been determined to be ~~((fully incapacitated over either the person or the estate, or both, under the guardianship laws,))~~ subject to a guardianship, conservatorship, or other protective arrangement under chapter ~~((11.88))~~ 11.130 RCW. If a hearing is scheduled under this subsection, the protection order shall remain in effect pending the court's decision at the subsequent hearing.

(3) At the hearing scheduled by the court, the court shall give the vulnerable adult, the respondent, the petitioner, and in the court's discretion other interested persons, the opportunity to testify and submit relevant evidence.

(4) If the court determines that the vulnerable adult is capable of protecting his or her person or estate in connection with the issues raised in the petition, and the individual continues to object

to the protection order, the court shall dismiss the order or may modify the order if agreed to by the vulnerable adult. If the court determines that the vulnerable adult is not capable of protecting his or her person or estate in connection with the issues raised in the petition or order, and that the individual continues to need protection, the court shall order relief consistent with RCW 74.34.130 as it deems necessary for the protection of the vulnerable adult. In the entry of any order that is inconsistent with the expressed wishes of the vulnerable adult, the court's order shall be governed by the legislative findings contained in RCW 74.34.005.

Sec. 738. RCW 74.34.163 and 2007 c 312 s 10 are each amended to read as follows:

Any vulnerable adult who ~~((has not been adjudicated fully incapacitated under chapter 11.88 RCW, or the vulnerable adult's guardian,))~~ is subject to a limited guardianship, limited conservatorship, or other protective arrangement under chapter 11.130 RCW, or the vulnerable adult's guardian, conservator, or person acting on behalf of the vulnerable adult under a protective arrangement may at any time subsequent to entry of a permanent protection order under this chapter, ~~((may))~~ apply to the court for an order to modify or vacate the order. In a hearing on an application to dismiss or modify the protection order, the court shall grant such relief consistent with RCW 74.34.110 as it deems necessary for the protection of the vulnerable adult, including dismissal or modification of the protection order.

Sec. 739. RCW 74.42.430 and 1980 c 184 s 12 are each amended to read as follows:

The facility shall develop written guidelines governing:

- (1) All services provided by the facility;
- (2) Admission, transfer or discharge;
- (3) The use of chemical and physical restraints, the personnel authorized to administer restraints in an emergency, and procedures for monitoring and controlling the use of the restraints;
- (4) Procedures for receiving and responding to residents' complaints and recommendations;
- (5) Access to, duplication of, and dissemination of information from the resident's record;
- (6) Residents' rights, privileges, and duties;
- (7) Procedures if the resident is adjudicated incompetent or incapable of understanding his or her rights and responsibilities;
- (8) When to recommend initiation of guardianship, conservatorship, or other protective arrangement proceedings under chapter ~~((11.88))~~ 11.130 RCW; ~~((and))~~
- (9) Emergencies;
- (10) Procedures for isolation of residents with infectious diseases; and
- (11) Procedures for residents to refuse treatment and for the facility to document informed refusal.

The written guidelines shall be made available to the staff, residents, members of residents' families, and the public.

PART VIII INTENT

NEW SECTION. Sec. 801. A new section is added to chapter 11.130 RCW to read as follows:

It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through guardianship, conservatorship, emergency guardianship, emergency conservatorship, and other protective arrangements

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only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs.

**PART IX
TECHNICAL**

NEW SECTION. Sec. 901. Sections 601 through 612 of this act are each added to chapter 11.130 RCW.

Sec. 902. RCW 11.130.915 and 2019 c 437 s 807 are each amended to read as follows:

This act takes effect January 1, ~~((2021))~~ 2022, except that:

(1) Section 129, chapter 437, Laws of 2019 takes effect on the effective date of this section; and

(2) With respect to minors, sections 101 through 128, 130 through 136, 201 through 216, 602, 802, 803, and 805, chapter 437, Laws of 2019 take effect January 1, 2021.

NEW SECTION. Sec. 903. 2019 c 437 s 801 (uncodified) is repealed.

NEW SECTION. Sec. 904. The following acts or parts of acts are each repealed:

(1)RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

(2)RCW 11.88.008 ("Professional guardian" defined) and 1997 c 312 s 2;

(3)RCW 11.88.010 (Authority to appoint guardians—Definitions—Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802, 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

(4)RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c 145 s 11.88.020;

(5)RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2, 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965 c 145 s 11.88.030;

(6)RCW 11.88.040 (Notice and hearing, when required—Service—Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

(7)RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, & 1975 1st ex.s. c 95 s 7;

(8)RCW 11.88.080 (Guardians nominated by will or durable power of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, & 1965 c 145 s 11.88.080;

(9)RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—Qualifications—Notice of and statement by guardian ad litem—Hearing and notice—Attorneys' fees and costs—Registry—Duties—Report—Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1, 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

(10)RCW 11.88.093 (Ex parte communications—Removal) and 2000 c 124 s 10;

(11)RCW 11.88.095 (Disposition of guardianship petition) and 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

(12)RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

(13)RCW 11.88.100 (Oath and bond of guardian or limited guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

(14)RCW 11.88.105 (Reduction in amount of bond) and 1990

c 122 s 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

(15)RCW 11.88.107 (When bond not required) and 1990 c 122 s 12, 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s 11.88.107;

(16)RCW 11.88.110 (Law on executors' and administrators' bonds applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

(17)RCW 11.88.115 (Notice to department of revenue);

(18)RCW 11.88.120 (Modification or termination of guardianship—Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c 145 s 11.88.120;

(19)RCW 11.88.125 (Standby limited guardian or limited guardian) and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8, 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st ex.s. c 95 s 6;

(20)RCW 11.88.127 (Guardianship—Incapacitated person—Letters of guardianship) and 2011 c 329 s 6;

(21)RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

(22)RCW 11.88.140 (Termination of guardianship or limited guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9, 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, & 1965 c 145 s 11.88.140;

(23)RCW 11.88.150 (Administration of deceased incapacitated person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

(24)RCW 11.88.160 (Guardianships involving veterans) and 1990 c 122 s 13;

(25)RCW 11.88.170 (Guardianship courthouse facilitator program) and 2015 c 295 s 1;

(26)RCW 11.88.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

(27)RCW 11.92.010 (Guardians or limited guardians under court control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, & 1965 c 145 s 11.92.010;

(28)RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c 95 s 19, & 1965 c 145 s 11.92.035;

(29)RCW 11.92.040 (Duties of guardian or limited guardian in general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985 c 30 s 9;

(30)RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

(31)RCW 11.92.050 (Intermediate accounts or reports—Hearing—Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

(32)RCW 11.92.053 (Settlement of estate upon termination) and 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s 11.92.053;

(33)RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

(34)RCW 11.92.060 (Guardian to represent incapacitated person—Compromise of claims—Service of process) and 1990 c 122 s 26, 1975 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

(35)RCW 11.92.090 (Sale, exchange, lease, or mortgage of property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145 s 11.92.090;

(36)RCW 11.92.096 (Guardian access to certain held assets) and 1991 c 289 s 13;

(37)RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

(38)RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29, 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

(39)RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s 11.92.115;

(40)RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c 95 s 28 & 1965 c 145 s 11.92.120;

(41)RCW 11.92.125 (Broker's fee and closing expenses—Sale, exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s 15 & 1965 c 145 s 11.92.125;

(42)RCW 11.92.130 (Performance of contracts) and 1990 c 122 s 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

(43)RCW 11.92.140 (Court authorization for actions regarding guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s 32, 1990 c 122 s 32, & 1985 c 30 s 10;

(44)RCW 11.92.150 (Request for special notice of proceedings) and 1990 c 122 s 33 & 1985 c 30 s 11;

(45)RCW 11.92.160 (Citation for failure to file account or report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s 11.92.160;

(46)RCW 11.92.170 (Removal of property of nonresident incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16, 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

(47)RCW 11.92.180 (Compensation and expenses of guardian or limited guardian—Attorney's fees—Department of social and health services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33, & 1965 c 145 s 11.92.180;

(48)RCW 11.92.185 (Concealed or embezzled property) and 1990 c 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

(49)RCW 11.92.190 (Detention of person in residential placement facility against will prohibited—Effect of court order—Service of notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c 249 s 11, & 1977 ex.s. c 309 s 14; and

(50)RCW 11.92.195 (Incapacitated persons—Right to associate with persons of their choosing) and 2017 c 268 s 1.

NEW SECTION. Sec. 905. The following acts or parts of acts are each repealed:

(1)RCW 26.10.010 (Intent) and 1987 c 460 s 25;

(2)RCW 26.10.015 (Mandatory use of approved forms) and 1992 c 229 s 4 & 1990 1st ex.s. c 2 s 27;

(3)RCW 26.10.020 (Civil practice to govern—Designation of proceedings—Decrees) and 1987 c 460 s 26;

(4)RCW 26.10.030 (Child custody proceeding—Commencement—Notice—Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, & 1987 c 460 s 27;

(5)RCW 26.10.032 (Child custody motion—Affidavit required—Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

(6)RCW 26.10.034 (Petitions—Indian child statement—Application of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s 1, & 2003 c 105 s 7;

(7)RCW 26.10.040 (Provisions for child support, custody, and visitation—Federal tax exemption—Continuing restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order) and 2000 c 119 s 8, 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s 28;

(8)RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

(9)RCW 26.10.050 (Child support by parents—Apportionment of expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

(10)RCW 26.10.060 (Health insurance coverage—Conditions) and 1989 c 375 s 19 & 1987 c 460 s 30;

(11)RCW 26.10.070 (Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements) and 1989 c 375 s 20 & 1987 c 460 s 31;

(12)RCW 26.10.080 (Payment of costs, attorney's fees, etc.) and 1987 c 460 s 35;

(13)RCW 26.10.090 (Failure to comply with decree or temporary injunction—Obligation to make support payments or permit visitation not suspended—Motion) and 1987 c 460 s 36;

(14)RCW 26.10.100 (Determination of custody—Child's best interests) and 1987 c 460 s 38;

(15)RCW 26.10.110 (Temporary custody order—Vacation of order) and 1987 c 460 s 39;

(16)RCW 26.10.120 (Interview with child by court—Advice of professional personnel) and 1987 c 460 s 40;

(17)RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2 & 1987 c 460 s 41;

(18)RCW 26.10.135 (Custody orders—Background information to be consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

(19)RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and 1987 c 460 s 42;

(20)RCW 26.10.150 (Access to child's education and medical records) and 1987 c 460 s 43;

(21)RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2, 1989 c 326 s 2, & 1987 c 460 s 44;

(22)RCW 26.10.170 (Powers and duties of custodian—Supervision by appropriate agency when necessary) and 1987 c 460 s 45;

(23)RCW 26.10.180 (Remedies when a child is taken, enticed, or concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

(24)RCW 26.10.190 (Petitions for modification and proceedings concerning relocation of child—Assessment of attorneys' fees) and 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

(25)RCW 26.10.200 (Temporary custody order or modification of custody decree—Affidavits required) and 1987 c 460 s 48;

(26)RCW 26.10.210 (Venue) and 1987 c 460 s 49;

(27)RCW 26.10.220 (Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s 50; and

(28)RCW 26.10.910 (Short title—1987 c 460).

NEW SECTION. Sec. 906. A new section is added to chapter 11.130 RCW to read as follows:

(1) To the extent of a conflict between this chapter and chapter 11.88 or 11.92 RCW, chapter 11.88 or 11.92 RCW prevails.

(2) This section expires January 1, 2022.

NEW SECTION. Sec. 907. (1) Except for sections 101 through 122, 301 through 307, 312, 313, 725, 801, 902, 903, 905, and 906 of this act, this act takes effect January 1, 2022.

(2) Sections 101 through 122, 301 through 307, 312, 313, 725, 801, 905, and 906 of this act take effect January 1, 2021."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6287.

Senators Pedersen and Padden spoke in favor of the motion.

Senator Sheldon spoke on the motion.

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House

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amendment(s) to Engrossed Substitute Senate Bill No. 6287.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6287 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6287, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6287, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 6287, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

INTRODUCTION AND FIRST READING

SHB 1808 by House Committee on Finance (originally sponsored by Orcutt)

AN ACT Relating to making the nonprofit and library fundraising exemption permanent; amending RCW 82.12.225; and creating a new section.

Referred to Committee on Ways & Means.

HB 2505 by Representatives Robinson, Boehnke, Chapman, Leavitt, Orcutt, Doglio and Tharinger

AN ACT Relating to extending the business and occupation tax exemption for amounts received as credits against contracts with or funds provided by the Bonneville power administration and used for low-income ratepayer assistance and weatherization; amending RCW 82.04.310; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2943 by Representatives Robinson, Chapman and Tharinger

AN ACT Relating to providing a business and occupation tax preference for behavioral health administrative services organizations; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 2950 by House Committee on Finance (originally sponsored by Macri and Ramel)

AN ACT Relating to addressing affordable housing needs through the multifamily housing tax exemption by providing an extension of the exemption until January 1, 2022, for certain properties currently receiving a twelve-year exemption and by convening a work group; amending RCW 84.14.020 and 84.14.100; and creating a new section.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6300 with the following amendment(s): 6300-S.E AMH ENGR H5181.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 16.08.100 and 2002 c 244 s 3 are each amended to read as follows:

(1) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered under RCW 16.08.080; (b) owner does not secure the liability insurance coverage required under RCW 16.08.080; (c) dog is not maintained in the proper enclosure; or (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. The owner must pay the costs of confinement and control. The animal control authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

(2) If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by

an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a class C felony punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog: (a) Trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog; or (b) provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by an animal control authority, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

~~((4) Any person entering a dog in a dog fight is guilty of a class C felony punishable in accordance with RCW 9A.20.021.))~~

Sec. 2. RCW 16.52.011 and 2019 c 174 s 3 are each amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

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

(a) "Abandonment" means the knowing or reckless desertion of an animal by its owner, or by a person who has taken control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117, or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (h) of this subsection and RCW 16.52.025.

(e) "Dog" means an animal of the species *Canis lupus familiaris*.

(f) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(g) "Food" means food or feed appropriate to the species for which it is intended.

(h) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

(i) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(j) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

(k) "Malice" has the same meaning as provided in RCW 9A.04.110, but applied to acts against animals.

(l) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age, species, and condition, and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal or as directed by a veterinarian for medical reasons.

(m) "Necessary shelter" means a structure sufficient to protect a dog from wind, rain, snow, cold, heat, or sun that has bedding to permit a dog to remain dry and reasonably clean and maintain a normal body temperature.

(n) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal or as directed by a veterinarian for medical reasons.

(o) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(p) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

~~(q) ("Similar animal" means: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.~~

~~(r))~~ "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

~~(s))~~ ~~(r)~~ "Tether" means: (i) To restrain an animal by tying or securing the animal to any object or structure; and (ii) a device including, but not limited to, a chain, rope, cable, cord, tie-out, pulley, or trolley system for restraining an animal.

Sec. 3. RCW 16.52.085 and 2016 c 181 s 1 are each amended to read as follows:

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or a person owns, cares for, or resides with an animal in violation of an order issued under RCW 16.52.200(4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner.

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The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to post or renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with ~~((a similar))~~ animals under RCW 16.52.200(4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court. Copies of the petition must be served on the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must surrender the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the hearing on the petition, then the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

Sec. 4. RCW 16.52.095 and 1994 c 261 s 7 are each amended to read as follows:

~~((It shall not be lawful for))~~ (1) Except as provided in subsection (2) of this section, it is a misdemeanor:

~~(a) For any person to cut off more than one-half of the ear or ears of any domestic animal such as an ox, cow, bull, calf, sheep, goat, or hog, or dog, and any person cutting off more than one-half of the ear or ears of any such animals, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum less than twenty dollars. This section does not apply if cutting off more than one-half of the ear of the animal is a customary husbandry practice); or~~

(b) For any person to:

(i) Devocalize a dog;

(ii) Crop or cut off any part of the ear of a dog; or

(iii) Crop or cut off any part of the tail of a dog that is seven days old or older, or has opened its eyes, whichever occurs sooner.

(2) This section does not apply if the person performing the procedure is a licensed veterinarian utilizing accepted veterinary

surgical protocols that may include local anesthesia, general anesthesia, or perioperative pain management.

Sec. 5. RCW 16.52.200 and 2016 c 181 s 2 are each amended to read as follows:

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to recur.

(4) Any person convicted of animal cruelty shall be prohibited from owning, caring for, possessing, or residing with any ~~((similar))~~ animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection (5) of this section.

(5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own ~~((or possess a similar animal)),~~ care for, possess, or reside with animals five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

(a) The person's prior animal cruelty in the second degree convictions;

(b) The type of harm or violence inflicted upon the animals;

(c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions;

(d) Whether the person complied with the prohibition on owning, caring for, possessing, or residing with ~~((similar))~~ animals; and

(e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

(6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(8) If a person violates the prohibition on owning, caring for, possessing, or residing with ~~((similar))~~ animals under subsection (4) of this section, that person:

(a) Shall pay a civil penalty of one thousand dollars for the first

violation;

(b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and

(c) Is guilty of a gross misdemeanor for the third and each subsequent violation.

(9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

(10) Nothing in this section limits the authority of a law enforcement officer, animal control officer, custodial agency, or court to remove, adopt, euthanize, or require forfeiture of an animal under RCW 16.52.085.

Sec. 6. RCW 16.52.205 and 2015 c 235 s 6 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2)(a) A person is guilty of animal cruelty in the first degree when, except as authorized by law or as provided in (c) of this subsection, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal, or exposes an animal to excessive heat or cold and as a result causes: ~~((a))~~ (i) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or ~~((b))~~ (ii) death.

(b) In determining whether an animal has experienced the condition described in (a)(i) of this subsection due to exposure to excessive heat or cold, the trier of fact shall consider any evidence as to: (i) Whether the animal's particular species and breed is physiologically adaptable to the conditions to which the animal was exposed; and (ii) the animal's age, health, medical conditions, and any other physical characteristics of the animal or factor that may affect its susceptibility to excessive heat or cold.

(c) A person is not guilty of animal cruelty in the first degree by means of exposing an animal to excessive heat or cold if the exposure is due to an unforeseen or unpreventable accident or event caused exclusively by an extraordinary force of nature.

(3) A person is guilty of animal cruelty in the first degree when he or she:

(a) Knowingly engages in any sexual conduct or sexual contact with an animal;

(b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal;

(c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control;

(d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or

(e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.

(5) In addition to the penalty imposed in subsection (4) of this section, the court ~~((may))~~ must order that the convicted person ~~((do any of the following:~~

(a) Not harbor or own animals or reside in any household where animals are present;

~~((b))~~ not own, care for, possess, or reside in any household where an animal is present, in accordance with RCW 16.52.200.

(6) In addition to the penalties imposed in subsections (4) and (5) of this section, the court may order that the convicted person:

(a) Participate in appropriate counseling at the defendant's expense;

~~((e))~~ (b) Reimburse the animal shelter or humane society for any reasonable costs incurred for the care and maintenance of any animals taken to the animal shelter or humane society as a result of conduct proscribed in ~~((subsection (3) of))~~ this section.

~~((6))~~ (7) Nothing in this section ~~((may be considered to))~~ prohibits accepted animal husbandry practices or ~~((accepted veterinary medical practices by))~~ prohibits a licensed veterinarian or certified veterinary technician from performing procedures on an animal that are accepted veterinary medical practices.

~~((7))~~ (8) If the court has reasonable grounds to believe that a violation of this section has occurred, the court may order the seizure of all animals involved in the alleged violation as a condition of bond of a person charged with a violation.

~~((8))~~ (9) For purposes of this section:

(a) "Animal" means every creature, either alive or dead, other than a human being.

(b) "Sexual conduct" means any touching ~~((or))~~ by a person of, fondling by a person of, transfer of saliva by a person to, or use of a foreign object by a person on, ~~((either directly or through clothing, of))~~ the sex organs or anus of an animal, either directly or through clothing, or any transfer or transmission of semen by the person upon any part of the animal ~~((for the purpose of sexual gratification or arousal of the person)).~~

(c) "Sexual contact" means ~~((any))~~ (i) Any contact, however slight, between the mouth, sex organ, or anus of a person and the sex organ or anus of an animal, or between the sex organ or anus of a person and the mouth of an animal; or (ii) any intrusion, however slight, of any part of the body of the person or foreign object into the sex organ or anus of an animal ~~((or any intrusion of the sex organ or anus of the person into the mouth of the animal, for the purpose of sexual gratification or arousal of the person)).~~

(d) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording, sale, or transmission of the image.

Sec. 7. RCW 16.52.207 and 2019 c 174 s 2 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty:

(a) The person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or

(b) The person takes control, custody, or possession of an animal that was involved in animal fighting as described in RCW 16.52.117 and knowingly, recklessly, or with criminal negligence abandons the animal ~~((, and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm)).~~

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) ~~((Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons))~~ Abandons the animal ~~((or~~

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~~(c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm)).~~

(3) Animal cruelty in the second degree is a gross misdemeanor.

~~((4) In any prosecution of animal cruelty in the second degree under subsection (1)(a) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.))~~

Sec. 8. RCW 16.54.020 and 2011 c 336 s 425 are each amended to read as follows:

Any person having in his or her care, custody, or control any abandoned animal as defined in RCW 16.54.010, may deliver such animal to any ~~((humane society having facilities for the care of such animals or to any pound maintained by or under contract or agreement with any city or county within which such animal was abandoned. If no such humane society or pound exists within the county))~~ animal care and control agency as defined in RCW 16.52.011 or to an animal rescue group as defined in RCW 82.04.040 having the facilities and resources necessary for the care of such animals. If such an animal care and control agency or animal rescue group cannot reasonably be identified to receive the animal, the person with whom the animal was abandoned may notify the sheriff of the county wherein the abandonment occurred.

Sec. 9. RCW 16.54.030 and 1955 c 190 s 3 are each amended to read as follows:

It shall be the duty of the sheriff of such county upon being so notified, to dispose of such animal as provided by law in reference to estrays if such law is applicable to the animal abandoned, or if not so applicable then deliver such an animal to any animal care and control agency as defined in RCW 16.52.011 or to an animal rescue group as defined in RCW 82.04.040 having the facilities and resources necessary for the care of such an animal. If such an animal care and control agency or animal rescue group cannot reasonably be identified to receive the animal, then such an animal shall be sold by the sheriff at public auction. Notice of any such sale shall be given by posting a notice in three public places in the county at least ten days prior to such public sale. Proceeds of such sale shall be paid to the county treasurer for deposit in the county general fund.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

- (1)RCW 16.08.030 (Marauding dog—Duty of owner to kill) and 1929 c 198 s 7;
- (2)RCW 16.52.110 (Old or diseased animals at large) and 2011 c 336 s 424 & 1901 c 146 s 13; and
- (3)RCW 16.52.165 (Punishment—Conviction of misdemeanor) and 1982 c 114 s 7 & 1901 c 146 s 16."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rivers moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6300. Senator Rivers spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rivers that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6300.

The motion by Senator Rivers carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6300 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6300, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6300, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Walsh, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Schoesler, Wagoner and Warnick

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 6300, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6592 with the following amendment(s): 6592-S.E AMH FIN H5333.1

On page 2, line 29, after "area." insert "To impose the additional charge, signatures of the persons who operate lodging businesses who would pay sixty percent or more of the proposed charges must be provided together with the proposed uses and projects to which the proposed revenue from the additional charge shall be put, the total estimate costs, and the estimated rate for the charge with a proposed breakdown by class of lodging business if such classification is to be used."

On page 3, line 13, after "charge." insert "The legislative authority may determine the timing of when to remove the charge so that the effective date of the expiration of the charge will not adversely impact existing contractual obligations not to exceed twelve months. The legislative authority may not be held liable for any financial obligations, contractual obligations, or damages for removing the charge."

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Holy moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6592. Senator Holy spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Holy that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6592.

The motion by Senator Holy carried and the Senate concurred

in the House amendment(s) to Engrossed Substitute Senate Bill No. 6592 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6592, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6592, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Brown, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Braun, Carlyle, Honeyford, King, Padden, Rivers and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 6592, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6660 with the following amendment(s): 6660-S AMH APP H5349.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.88.030 and 2006 c 334 s 43 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The biennial budget document or documents shall also describe performance indicators that demonstrate measurable progress towards priority results. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and

programs for which the forecast councils do not prepare an official forecast. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, and agency;

(f) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of

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general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) The governor's operating budget document or documents shall reflect the statewide priorities as required by RCW 43.88.090.

(4) The governor's operating budget document or documents shall identify activities that are not addressing the statewide priorities.

(5)(a) Beginning in the 2021-2023 fiscal biennium, the governor's operating budget document or documents submitted to the legislature must leave, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2021-2023 fiscal biennium, the projected maintenance level of the governor's operating budget document or documents submitted to the legislature must not exceed the available fiscal resources for the next ensuing fiscal biennium.

(c) For purposes of this subsection:

(i) "Available fiscal resources" means the beginning general fund and related funds balances and any fiscal resources estimated for the general fund and related funds, adjusted for proposed revenue legislation, and with forecasted revenues adjusted to the greater of (A) the official general fund and related funds revenue forecast for the ensuing biennium, or (B) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium.

(ii) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in the governor's budget document or documents submitted to the legislature or mandated by other state or federal law, adjusted by the estimated cost of proposed executive branch legislation, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution. Proposed executive branch legislation does not include proposals by institutions of higher education, other separately elected officials, or other boards, commissions, and offices not under the authority of the governor that are not funded or assumed in the governor's budget document or documents submitted to the legislature.

(iii) "Related funds" has the meaning defined in RCW 43.88.055.

(d) (b) of this subsection (5) does not apply:

(i) To any governor-proposed legislation submitted to the legislature that makes net reductions in general fund and related funds appropriations to prevent the governor from making across-the-board reductions in allotments for these particular funds as provided in RCW 43.88.110(7); or

(ii) In a fiscal biennium for which the governor proposes appropriations from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution.

(6) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in

order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (~~((5))~~) (6), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

~~((6))~~ (7) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the

previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 2. RCW 43.88.055 and 2012 1st sp.s. c 8 s 1 are each amended to read as follows:

(1) The legislature must adopt a four-year balanced budget as follows:

(a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

(2) For purposes of this section:

(a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated for the general fund and related funds, adjusted for enacted legislation, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium;

(b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution (~~, but does not include in the 2013-2015 and 2015-2017 fiscal biennia the costs related to the enhanced funding under the new definition of basic education as established in chapter 548, Laws of 2009, and affirmed by the decision in *Mathew McCleary et al., v. The State of Washington*, 173 Wn.2d 477, 269 P.3d 227, (2012), from which the short term exclusion of these obligations is solely for the purposes of calculating this estimate and does not in any way indicate an intent to avoid full funding of these obligations);~~

(c) "Related funds," as used in this section, means the Washington opportunity pathways account, the workforce education investment account, and the education legacy trust account.

(3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution.

Sec. 3. RCW 43.135.025 and 2015 3rd sp.s. c 29 s 3 are each amended to read as follows:

(1) (~~Beginning July 1, 2021, the state shall not expend from the general fund during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.~~

(2) ~~Except pursuant to an appropriation under RCW 43.135.045(2), the state treasurer shall not issue or redeem any check, warrant, or voucher that will result in a state general fund expenditure for any fiscal year in excess of the state expenditure~~

~~limit established under this chapter. A violation of this subsection constitutes a violation of RCW 43.88.290 and shall subject the state treasurer to the penalties provided in RCW 43.88.300.~~

(3) ~~The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.~~

(4) ~~For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 2021, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund for the fiscal year beginning July 1, 2020, plus the fiscal growth factor.~~

(5) ~~A state expenditure limit committee is established for the purpose of determining and adjusting the state expenditure limit as provided in this chapter. The members of the state expenditure limit committee are the director of financial management, the attorney general or the attorney general's designee, and the chairs and ranking minority members of the senate committee on ways and means and the house of representatives committee on ways and means. All actions of the state expenditure limit committee taken pursuant to this chapter require an affirmative vote of at least four members.~~

(6) ~~Each November, the ((state expenditure limit committee)) economic and revenue forecast council shall ((adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in)) calculate the fiscal growth factor ((and then project an expenditure limit)) for ((the next two)) each fiscal ((years)) year of the current biennium and the ensuing biennium. ((If, by November 30th, the state expenditure limit committee has not adopted the expenditure limit adjustment and projected expenditure limit as provided in subsection (5) of this section, the attorney general or his or her designee shall adjust or project the expenditure limit, as necessary.~~

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

(a) "Fiscal growth factor" means the average growth in state personal income for the prior ten fiscal years.

(8) ~~(b) "General fund" means the state general fund.~~

Sec. 4. RCW 43.135.034 and 2015 3rd sp.s. c 44 s 421 are each amended to read as follows:

(1)(a) Any action or combination of actions by the legislature that raises taxes may be taken only if approved by a two-thirds vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(b) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the state legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

(2) ~~((a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature may not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee must adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment may not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit must be adjusted downward upon expiration or repeal of the legislative action.~~

(b) The ballot title for any vote of the people required under this section must be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

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~~(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law must set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.~~

~~(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes expire upon expiration of the declaration of emergency. The legislature may not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.~~

~~(e)) The state or any political subdivision of the state may not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.~~

~~((4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), must lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(1)(c), in support of education or education expenditures; (b) a transfer of moneys to, or an expenditure from, the budget stabilization account; or (c) a transfer of money to, or an expenditure from, the connecting Washington account established in RCW 46.68.395.~~

~~(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), must increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.)~~

Sec. 5. RCW 82.33.060 and 2012 1st sp.s. c 8 s 4 are each amended to read as follows:

(1) To facilitate compliance with, and subject to the terms of, RCW 43.88.055 and 43.88.030, the state budget outlook work group shall prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010, an official state budget outlook for state revenues and expenditures for the general fund and related funds. ~~((In odd numbered years, the period covered by the November state budget outlook shall be the current fiscal biennium and the next ensuing fiscal biennium. In even numbered years, the period covered by the November state budget outlook shall be the next two ensuing fiscal biennia.))~~ The revenue and caseload projections used in the outlook must reflect the most recent official forecasts adopted by the economic and revenue forecast council and the caseload forecast council for the years for which those forecasts are available.

(2) The outlook must:

(a) Estimate revenues to and expenditures from the state general fund and related funds. The estimate of ensuing biennium

expenditures must include maintenance items including, but not limited to, continuation of current programs, forecasted growth of current entitlement programs, and actions required by law, including legislation with a future implementation date. Estimates of ensuing biennium expenditures must exclude policy items including, but not limited to, legislation not yet enacted by the legislature, collective bargaining agreements not yet approved by the legislature, and changes to levels of funding for employee salaries and benefits unless those changes are required by statute. Estimated maintenance level expenditures must also exclude costs of court rulings issued during or within fewer than ninety days before the beginning of the current legislative session;

(b) Address major budget and revenue drivers, including trends and variability in these drivers;

(c) Clearly state the assumptions used in the estimates of baseline and projected expenditures and any adjustments made to those estimates;

(d) Clearly state the assumptions used in the baseline revenue estimates and any adjustments to those estimates; and

(e) Include the impact of previously enacted legislation with a future implementation date.

(3) The outlook must also separately include projections based on the revenues and expenditures proposed in the governor's budget documents submitted to the legislature under RCW 43.88.030.

(4) The economic and revenue forecast council shall submit state budget outlooks prepared under this section to the governor and the members of the committees on ways and means of the senate and house of representatives, including one copy to the staff of each of the committees, as required by this section.

(5) Each January, the state budget outlook work group shall also prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the governor's proposed budget document submitted to the legislature under chapter 43.88 RCW. Within thirty days following enactment of an operating budget by the legislature, the work group shall prepare, subject to the approval of the economic and revenue forecast council, a state budget outlook for state revenues and expenditures that reflects the enacted budget.

(6) All agencies of state government shall provide to the supervisor immediate access to all information relating to state budget outlooks.

(7) The state budget outlook work group must publish its proposed methodology on the economic and revenue forecast council web site. The state budget outlook work group, in consultation with the economic and revenue forecast work group and outside experts if necessary, must analyze the extent to which the proposed methodology for projecting expenditures for the ensuing fiscal biennia may be reliably used to determine the future impact of appropriations and make recommendations to change the outlook process to increase reliability and accuracy. The recommendations are due by December 1, 2013, and every five years thereafter.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

(1) RCW 43.135.010 (Findings—Intent) and 2015 3rd sp.s. c 29 s 2, 2005 c 72 s 3, 1994 c 2 s 1 (Initiative Measure No. 601, approved November 2, 1993), & 1980 c 1 s 1 (Initiative Measure No. 62, approved November 6, 1979);

(2) RCW 43.135.0341 (Child and family reinvestment account transfers) and 2012 c 204 s 3;

(3) RCW 43.135.0342 (Dedication of premium taxes under RCW 48.14.0201 or 48.14.020) and 2013 2nd sp.s. c 6 s 4;

(4) RCW 43.135.0343 (Liquefied natural gas sales tax revenue

transfers) and 2014 c 216 s 407;

(5)RCW 43.135.0351 (Reinvesting in youth account transfers) and 2006 c 304 s 5;

(6)RCW 43.135.080 (Reenactment and reaffirmation of Initiative Measure No. 601—Continued limitations—Exceptions) and 1998 c 321 s 14 (Referendum Bill No. 49, approved November 3, 1998); and

(7)RCW 43.135.904 (Effective dates—1994 c 2) and 1994 c 2 s 14 (Initiative Measure No. 601, approved November 2, 1993).

NEW SECTION. Sec. 7. This act takes effect July 1, 2020." Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6660.

Senators Rolfes and Braun spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6660.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6660 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6660, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6660, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 6660, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2020

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6128 with the following amendment(s): 6128-S2.E AMH APP H5348.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) In Washington and across the country, maternal mortality rates continue to be unacceptably

high. Approximately seven hundred people die each year in the United States due to pregnancy-related conditions. The majority of these deaths are preventable.

(2) Maternal mortality data reveal significant racial and ethnic disparities. In this state, American Indian and Alaska native women are six to seven times as likely to die from a pregnancy-related cause than white women.

(3) The centers for disease control and prevention define the postpartum period as extending one year after the end of pregnancy, and data show that health needs continue during that entire year. In Washington, nearly one-third of all pregnancy-related deaths and the majority of suicides and accidental overdoses occurred between forty-three and three hundred sixty-five days postpartum.

(4) The maternal mortality review panel has identified access to health care services and gaps in continuity of care, especially during the postpartum period, as factors that contribute to preventable pregnancy-related deaths. In their October 2019 report to the legislature, the panel recommended ensuring funding and access to postpartum care and support through the first year after pregnancy.

(5) Postpartum medicaid coverage currently ends sixty days after pregnancy, creating an unsafe gap in coverage. Continuity of care is critical during this vulnerable time, and uninterrupted health insurance provides birthing parents with access to stable and consistent care. Extending health care coverage through the first year postpartum is one of the best tools for increasing access to care and improving maternal and infant health.

(6) The legislature therefore intends to extend health care coverage from sixty days to twelve months postpartum. Nothing in this act is intended to limit eligibility or reduce benefits that are available to pregnant or postpartum persons as of the effective date of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

The authority shall provide health care coverage to all postpartum persons who reside in Washington state, have countable income equal to or below one hundred ninety-three percent of the federal poverty level, and are not otherwise eligible for full scope coverage under Title XIX or Title XXI of the federal social security act. Health care coverage under this section must be extended by an additional ten months, for those enrolled postpartum persons who are eligible under pregnancy eligibility rules at the end of the sixty day postpartum period, to provide a total of twelve months postpartum coverage. To ensure continuity of care and maximize the efficiency of the program, the amount, scope, and duration of health care services provided to individuals under this section must be the same as that provided to pregnant and postpartum persons under medical assistance, as defined in RCW 74.09.520.

NEW SECTION. Sec. 3. To allow the state to receive federal matching funds for the coverage of postpartum persons identified in section 2 of this act, the authority shall: (1) Seek any available federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available in the future; and (2) no later than January 1, 2021, submit a waiver request to the federal centers for medicare and medicaid services. The authority shall report to the legislature on the status of the waiver request by January 1, 2021, and inform the legislature of any statutory changes necessary to allow the state to receive federal match for the coverage of postpartum persons identified in section 2 of this act.

NEW SECTION. Sec. 4. Section 2 of this act takes effect

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when the state becomes eligible to receive federal financial participation for health care coverage for persons with countable income at or below one hundred ninety-three percent of the federal poverty level through twelve months postpartum.

NEW SECTION. Sec. 5. The health care authority must provide written notice of the effective date of section 2 of this act to the affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others deemed appropriate by the health care authority."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6128.

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

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6128.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6128 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6128, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6128, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yeas: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6128, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed SENATE BILL NO. 6565 with the following amendment(s): 6565 AMH TR H5339.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.575 and 1977 ex.s. c 151 s 41 are each amended to read as follows:

(1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within twelve inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder. This subsection does not apply to the parking of motorcycles, unless a local jurisdiction prohibits angle parking as permitted under subsection (3)(a)(i) of this section and does not otherwise specify the manner in which a motorcycle must park.

(3)(a)(i) Every motorcycle stopped or parked on a one-way or two-way highway shall be so stopped or parked parallel or at an angle to the curb or edge of the highway with at least one wheel or fender within twelve inches of the curb nearest to which the motorcycle is parked or as close as practicable to the edge of the shoulder nearest to which the motorcycle is parked. A motorcycle may not be parked in such a manner that it extends into the roadway.

(ii) A county, city, or town may by ordinance prohibit the angle stopping or parking of a motorcycle as specified in (a)(i) of this subsection, but must post visible signage in a location to provide notice of the prohibition on angle stopping or parking for the prohibition to apply to that location.

(b)(i) More than one motorcycle may occupy a parking space, provided that the parked motorcycles occupying the parking space do not exceed the boundaries of that parking space.

(ii) All motor vehicle parking laws and penalties for the unlawful parking of a motor vehicle apply to each motorcycle parked in a parking space when multiple motorcycles are parked in that space to the same extent that motor vehicle parking laws apply to a single motor vehicle when it is the sole motor vehicle parked in a parking space. When proof of payment is required to be displayed by each motor vehicle parking at a location, all motorcycles must display such proof of payment, even if more than one motorcycle is parked in the same parking space. However, parking spaces that are metered by the space may not require payment multiple times for the use of a single parking space by multiple motorcycles during the same period of time.

(4) Local authorities may by ordinance or resolution permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the secretary of transportation has determined by order that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. The angle parking of motorcycles, which is governed under subsection (3) of this section, is not subject to this determination by the secretary of transportation.

~~((4))~~ (5) The secretary with respect to highways under his or her jurisdiction may place official traffic control devices prohibiting, limiting, or restricting the stopping, standing, or parking of vehicles on any highway where the secretary has determined by order, such stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic thereon. No person shall stop, stand, or park any vehicle in violation of the restrictions indicated by such

devices."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Senate Bill No. 6565.

Senator Randall spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Senate Bill No. 6565.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6565 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6565, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6565, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SENATE BILL NO. 6565, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 9, 2020

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2322 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Fey, Barkis, Wylie

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 2322 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 2322 and the House amendment(s) there to: Senators Hobbs, King and Saldaña.

MOTION

On motion of Senator Liias, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SENATE BILL NO. 5792 with the following amendment(s): 5792 AMH RYUC JONC 205; 5792 AMH BERG H5357.1

On page 6, line 23, after "entity;" strike "and" and insert "((and))"

On page 6, line 28, after "organizations;" insert "and (f) Procedures to be used by the designated entity in considering the award of funding to community preservation and development authorities formed under chapter 43.167 RCW, if any exist within the county. The procedures must ensure the eligibility of and consider support for the projects and programs identified in the strategic preservation and development plans, adopted pursuant to RCW 43.167.030, of each community preservation and development authority within the county;"

On page 5, line 34, after "county." insert "A public school cultural access program must provide every school in the county a list of appropriate off-site cultural experiences and a list of appropriate on-site cultural experiences for each grade level, every year. Information notifying schools of available transportation funding must be included in the list of off-site cultural experiences."

On page 6, line 2, after "funding" insert ". A public school cultural access program must provide transportation to off-site cultural experiences for all students at all schools in the county that are located within a school district in which at least forty percent of the district's students are eligible for the federal free and reduced-price school meals program. The county may limit its spending on the transportation benefit to no more than five percent of funds collected each year under RCW 36.160.080"

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Salomon moved that the Senate concur in the House amendment(s) to Senate Bill No. 5792.

Senators Salomon and Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Salomon that the Senate concur in the House amendment(s) to Senate Bill No. 5792.

The motion by Senator Salomon carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5792 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5792, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5792, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Hasegawa and Honeyford

Excused: Senator Ericksen

SENATE BILL NO. 5792, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6027 with the following amendment(s): 6027-S2 AMH LEKA HATF 052

On page 2, line 32, after "residence" insert ". All replacements and remodels which add one hundred twenty square feet or more to the living space must require on-board gray-water containment or a waste-water connection that disposes of the gray water to a waste-water disposal system".

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6027.

Senators Pedersen and Warnick spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6027.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6027 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6027, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6027, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SECOND SUBSTITUTE SENATE BILL NO. 6027, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2020

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5149 with the following amendment(s): 5149-S2 AMH GOOD HARO 467

On page 5, beginning on line 38, after "individual" strike all material through "away" on line 39 and insert "enters within the restricted distance of a victim or protected party, or within the restricted distance of a designated location".

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Wilson, L. moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5149.

Senator Wilson, L. spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson, L. that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5149.

The motion by Senator Wilson, L., carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5149 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5149, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5149, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SECOND SUBSTITUTE SENATE BILL NO. 5149, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SENATE BILL NO. 6090 with the following amendment(s): 6090 AMH CRJ H5207.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 4.24 RCW to read as follows:

(1) Any fire protection service agency, as defined in RCW 52.12.160, as well as the firefighters therein, whether volunteer or paid, that delivers to, or installs at, residential premises a device or batteries for such a device is not liable for civil damages resulting from any act or omission in the delivery or installation of a device or batteries for such a device, provided:

(a) Such installation was done in conformance with the manufacturer's instructions;

(b) Such installation or delivery was in the fire protection service agency's official capacity; and

(c) The act or omission did not constitute gross negligence or willful or wanton misconduct.

(2) Any device delivered or installed pursuant to subsection (1) of this section must be new and meet all applicable current safety and manufacturing standards.

(3) Smoke alarm installation program records considered a public record by chapter 40.14 RCW shall be retained in accordance with the schedule provided within that law.

(4) Nothing in this section shall be construed to limit or otherwise affect the obligations and duties of the owner or occupier of the residential premises receiving such delivery or installation services.

(5) For purposes of this section, "device" includes any battery-operated or plug-in smoke detector, carbon monoxide detector, or combination smoke and carbon monoxide detector."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Warnick moved that the Senate concur in the House amendment(s) to Senate Bill No. 6090.

Senator Warnick spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Warnick that the Senate concur in the House amendment(s) to Senate Bill No. 6090.

The motion by Senator Warnick carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6090 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6090, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6090, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SENATE BILL NO. 6090, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2020

MR. PRESIDENT:

The House passed SENATE BILL NO. 6305 with the following amendment(s): 6305 AMH LG H5203.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 27.12.222 and 1984 c 186 s 8 are each amended to read as follows:

A rural county library district, intercounty rural library district, or island library district may contract indebtedness and issue general obligation bonds not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-tenth of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. The maximum term of nonvoter approved general obligation bonds shall not exceed ~~((six))~~ twenty years. A rural county library district, island library district, or intercounty rural library district may additionally contract indebtedness and issue general obligation bonds for capital purposes only, together with any outstanding general indebtedness, not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015 whenever a proposition authorizing the issuance of such bonds has been approved by the voters of the district pursuant to RCW 39.36.050, by three-fifths of the persons voting on the proposition at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in such taxing district at the last preceding general election. If the voters shall so authorize at an election held pursuant to RCW 39.36.050, the district may levy annual taxes in excess of normal legal limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27.12.050 or 27.12.150 or any other statute pertaining to such library districts.

Sec. 2. RCW 27.15.020 and 2015 c 53 s 4 are each amended to read as follows:

(1) Upon receipt of a completed written request to both establish a library capital facility area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established ~~((shall))~~ must submit ~~((separate))~~ a ballot proposition(s) to voters to ~~((authorize establishing))~~ establish the proposed library capital facility area and ~~((authorizing))~~ authorize the library capital facility area ~~((,if established,))~~ to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot proposition ~~((s shall))~~ must be submitted to voters at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW

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29A.04.330. ~~((Approval of the ballot proposition to create a library capital facility area shall be))~~ The ballot proposition must be approved by a ((simple majority)) supermajority vote.

NO. 5887 with the following amendment(s): 5887.E2 AMH HCW H5018.1

(2) A completed request submitted under this section ((shall)) must include: ((~~(1)~~)) (a) A description of the boundaries of the library capital facility area; and ((~~(2)~~)) (b) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital facility area indicating both: ((~~(a)~~)) (i) Its approval of the creation of the proposed library capital facility area; and ((~~(b)~~)) (ii) agreement on how election costs will be paid for submitting the ballot proposition((s)) to voters ~~((that authorize the library capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness))~~.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to facilitate patient access to appropriate therapies for newly diagnosed health conditions while recognizing the necessity for health carriers to employ reasonable utilization management techniques.

(3) For the purposes of this section, a supermajority vote means the affirmative vote of a three-fifths majority of those voting on the proposition, and the total number of persons voting on the proposition must be at least 40 percent of the voters in the proposed library capital facility area who voted in the last preceding statewide general election."

Sec. 2. RCW 48.43.016 and 2019 c 308 s 22 are each amended to read as follows:

Correct the title.

(1) A health carrier or its contracted entity that imposes different prior authorization standards and criteria for a covered service among tiers of contracting providers of the same licensed profession in the same health plan shall inform an enrollee which tier an individual provider or group of providers is in by posting the information on its web site in a manner accessible to both enrollees and providers.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

(2)(a) A health carrier or its contracted entity may not require utilization management or review of any kind including, but not limited to, prior, concurrent, or postservice authorization for an initial evaluation and management visit and up to six ~~((consecutive))~~ treatment visits with a contracting provider in a new episode of care ~~((of chiropractic))~~ for each of the following: Chiropractic, physical therapy, occupational therapy, acupuncture and Eastern medicine, massage therapy, or speech and hearing therapies ~~((that meet the standards of medical necessity and))~~. Visits for which utilization management or review is prohibited under this section are subject to quantitative treatment limits of the health plan. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Senate Bill No. 6305.

(b) For visits for which utilization management or review is prohibited under this section, a health carrier or its contracted entity may not:

Senators Liias and Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Senate Bill No. 6305.

(i) Deny or limit coverage on the basis of medical necessity or appropriateness; or

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6305 by voice vote.

(ii) Retroactively deny care or refuse payment for the visits.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6305, as amended by the House.

(3) A health carrier shall post on its web site and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6305, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

Voting nay: Senators Hasegawa, Padden and Schoesler
Excused: Senator Ericksen

(6) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

SENATE BILL NO. 6305, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

(7) For purposes of this section:

MESSAGE FROM THE HOUSE

March 3, 2020

MR. PRESIDENT:

(a) "New episode of care" means treatment for a new ~~((or recurrent))~~ condition or diagnosis for which the enrollee has not been treated by ~~((the))~~ a provider of the same licensed profession within the previous ninety days and is not currently undergoing any active treatment.

The House passed SECOND ENGROSSED SENATE BILL

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a

carrier licensed under chapter 48.44 or 48.46 RCW."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Second Engrossed Senate Bill No. 5887.

Senator Short spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Second Engrossed Senate Bill No. 5887.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Second Engrossed Senate Bill No. 5887 by voice vote.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5887, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5887, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liiias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SECOND ENGROSSED SENATE BILL NO. 5887, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed SENATE BILL NO. 5811 with the following amendment(s): 5811 AMH ENVI H3323.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.120A.010 and 2010 c 76 s 1 are each amended to read as follows:

(1) Pursuant to the federal clean air act, the legislature adopts the California motor vehicle emission standards in Title 13 of the California Code of Regulations (~~effective January 1, 2005, except as provided in this chapter~~). The department of ecology shall adopt rules to implement the motor vehicle emission standards of the state of California ((for passenger cars, light duty trucks, and medium duty passenger vehicles)), including the zero emission vehicle program, and shall amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Sec. 7507 (section 177 of the federal clean air act). (~~Notwithstanding other provisions of this~~

~~chapter, the department of ecology shall not adopt the zero emission vehicle program regulations contained in Title 13 section 1962 of the California Code of Regulations effective January 1, 2005. During rule development, the department of ecology shall convene an advisory group composed of industry and consumer group representatives. Any proposed rules or changes to rules shall be subject to review and comment by the advisory group, prior to rule adoption. The order of adoption for the rules required in this section shall include the signature of the governor. The rules shall be effective only for those model years for which the state of Oregon has adopted the California motor vehicle emission standards. This section does not limit the department of ecology's authority to regulate motor vehicle emissions for any other class of vehicle.~~

~~(2) Motor vehicles with a model year equal to or later than the first model year for which new vehicles sold to Washington state residents are required to comply with California motor vehicle emission standards are exempt from emission inspections under chapter 70.120 RCW.~~

~~(3))~~ (2) The provisions of this chapter do not apply with respect to the use by a resident of this state of a motor vehicle acquired and used while the resident is a member of the armed services and is stationed outside this state pursuant to military orders.

Sec. 2. RCW 70.120A.050 and 2014 c 76 s 8 are each amended to read as follows:

(1) No model year 2010 or subsequent model year new passenger car, light duty truck, or medium duty (~~passenger~~) vehicle may be sold in Washington unless there is securely and conspicuously affixed in a clearly visible location a label on which the manufacturer clearly discloses comparative greenhouse gas emissions for that new vehicle.

(2) The label required by this section should include a greenhouse gas index or rating system that contains quantitative and graphical information presented in a continuous, easy-to-read scale that compares the greenhouse gas emissions from the vehicle with the average projected greenhouse gas emissions from all passenger cars, light duty trucks, and medium duty (~~passenger~~) vehicles of the same model year. For reference purposes, the index or rating system should also identify the greenhouse gas emissions from the vehicle model of that same model year that has the lowest greenhouse gas emissions.

(3) The index or rating system included in the label under subsection (2) of this section shall be updated as necessary to ensure that the differences in greenhouse gas emissions among vehicles are readily apparent to the consumer.

(4) An automobile manufacturer may apply to the department of ecology for approval of an alternative to the disclosure labeling requirement that is at least as effective in providing notification and disclosure of the vehicle's greenhouse gas emissions as is the labeling required by this section.

(5) A label that complies with the requirements of the California greenhouse gas vehicle labeling program shall be deemed to meet the requirements of this section and any rules adopted under this section.

(6) The department of ecology may adopt such rules as are necessary to implement this section.

NEW SECTION. Sec. 3. RCW 70.120A.020 (Early credits and banking—Alternative means of compliance) and 2005 c 295 s 3 are each repealed."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Nguyen moved that the Senate concur in the House amendment(s) to Senate Bill No. 5811.

Senator Nguyen spoke in favor of the motion.

Senators Fortunato and Padden spoke against the motion.

Senator Sheldon made spoke on the motion.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Senate Bill No. 5811.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5811 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5811, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5811, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Pedersen, Randall, Rolfes, Saldana, Salomon, Stanford, Wellman and Wilson, C.

Voting nay: Senators Becker, Braun, Brown, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Muzzall, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Ericksen

SENATE BILL NO. 5811, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 6561 with the following amendment(s): 6561-S2 AMH ENGR H5146.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature recognizes that students seeking to attend an institution of higher education or to receive training at a technical college have a variety of ways to fund their education. Students who meet Washington state residency requirements have access to state-funded financial aid programs such as the Washington college grant, college bound, and running start. While state residents have access to these state-sponsored financial aid options, not all state residents are eligible to receive federal financial aid such as the Pell grant or subsidized and unsubsidized student loans. Students who rely solely on state financial aid or scholarships might have difficulty in affording the remaining cost of attendance that student loans could fund.

(2) Therefore, the legislature intends to increase access to those students who are ineligible for federal financial aid by creating a state-funded and state-administered student loan program. The legislature intends for the undocumented student support loan program to provide students loans that are competitive with

federal student loans and offer multiple options for repayment including adjusted monthly payments based on income.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Eligible student" means a student who:

(a) Is a resident student;

(b) Demonstrates financial need as defined in RCW 28B.92.030;

(c) Has indicated they will attend an institution of higher education or is making satisfactory progress in a program, as defined in rule by the office, at an institution of higher education;

(d) Fills out the Washington application for state financial aid; and

(e) Does not qualify for federally funded student financial aid because of their citizenship status.

(2) "Institution of higher education" has the same meaning as in RCW 28B.92.030.

(3) "Office" means the office of student financial assistance created in RCW 28B.76.090.

(4) "Participant" means an eligible student who has received an undocumented student support loan.

(5) Resident student means:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) Any student:

(i) Who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state;

(ii) Whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school; and

(iii) Who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

(d) Any person:

(i) Who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma;

(ii) Who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent;

(iii) Who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education; and

(iv) Who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses.

NEW SECTION. Sec. 3. (1) The undocumented student support loan program is established.

(2) The program shall be designed by the office, in consultation with financial aid professionals at institutions of higher education,

state and nonprofit programs that work with eligible students, and relevant student associations and stakeholders in the development of the program.

(3) The program shall be administered by the office. In administering the program, the office has the following powers and duties:

(a) Screen and select, in coordination with representatives of institutions of higher education, eligible students to receive an undocumented student support loan;

(b) Consider an eligible student's financial inability to meet the total cost of the participant's educational program in the selection process;

(c) Issue low-interest student loans that are competitive with federal student loan programs;

(d) Establish annual and lifetime loan limits equal to the cost of attendance minus any other financial aid received as provided in subsection (6) of this section;

(e) Define the terms of repayment, including applicable interest rates, fees, and deferments;

(f) Collect and manage repayments from students who do not meet their obligations under this chapter;

(g) Consider income-based repayment options;

(h) Solicit and accept grants and donations from public and private sources for the program; and

(i) Adopt rules necessary to implement the program.

(4) The undocumented student support loan does not accrue interest while a participant is enrolled in an institution of higher education.

(5) The office may impose a loan origination fee up to, but not to exceed, the current rate imposed by the federal government on subsidized student loans.

(6) The maximum annual loan amount granted per student for the undocumented student support loan program is:

(a)(i) The cost of tuition and required fees at the public institution of higher education the student is attending; or

(ii) If the student is attending a private institution of higher education, the tuition and required fees at an equivalent public institution; and

(b) Less the value of any state-funded grant, scholarship, or waiver assistance the student receives, plus five hundred dollars for books and materials.

(7) Student loans issued under the program shall follow the requirements under 11 U.S.C. Sec. 523 regarding dischargeability in bankruptcy.

(8) Data collected by the program is private and confidential and must only be used for statistical analysis, research, and evaluation purposes. Data sharing by the office may be extended to include the office of financial management and other state governmental entities with oversight responsibility for the program, as long as personally identifiable student information is removed.

(9) The office shall provide information to the appropriate fiscal and relevant policy committees of the legislature by December 1, 2023, and every two years thereafter that includes the following:

(a) Dollar amount and number of private donations received;

(b) Number of applications received;

(c) Number of student loans provided to eligible students per year;

(d) Average student loan amount provided per participant;

(e) Level of degree program participants are pursuing;

(f) Number of student loans in active repayment, deferment, and default status; and

(g) Any other information the office deems relevant.

NEW SECTION. Sec. 4. (1) The undocumented student support loan match account is created in the custody of the state

treasurer as a nonappropriated account to be used solely and exclusively for the program created in section 3 of this act. The purpose of the account is to provide state matching funds for the undocumented student support loan program.

(2) Revenues to the account consist of appropriations by the legislature into the account.

(3)(a) The legislature must appropriate a state match, up to a maximum of two million dollars per fiscal biennium, beginning January 1, 2022, and each January 1st following the end of the fiscal year based on donations and pledges received by the office for the program as of the date each official state caseload forecast is submitted by the caseload forecast council to the legislative fiscal committees, as provided under RCW 43.88C.020. Nothing in this subsection expands or modifies the responsibilities of the caseload forecast council.

(b) In any year that the fund balance of the account is ten million dollars or more on the last day of the fiscal year, no state match shall be required the following year.

(4) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the office of private contributions to the program. Expenditures, in the form of matching funds, may not exceed the total amount of private contributions.

(5) Only the executive director of the office or the executive director's designee may authorize expenditures from the account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (4) of this section.

NEW SECTION. Sec. 5. This act takes effect July 1, 2021.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act constitute a new chapter in Title 28B RCW."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6561.

Senator Liias spoke in favor of the motion.

Senator Holy spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6561.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6561 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6561, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6561, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Pedersen, Randall, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Takko, Van De Wege, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Braun, Brown, Holy, Honeyford,

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Padden, Rivers, Schoesler, Short, Wagoner and Wilson, L.

Excused: Senator Ericksen

SECOND SUBSTITUTE SENATE BILL NO. 6561, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6570 with the following amendment(s): 6570-S AMH HCW H5132.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that law enforcement officers respond to and witness some of the most tragic events that happen in our communities. On-the-job stress can have a significant impact on their physical and mental well-being and can accumulate over the course of a career.

(2) Research indicates that law enforcement officers experience key risk factors for suicides, including exposure to trauma, alcohol use, availability of firearms, and the strains of shift work. Compared to the general population, law enforcement officers report much higher rates of depression, posttraumatic stress disorder, and other anxiety-related mental health conditions. These health conditions have a significant impact on the officers and their families.

(3) A 2019 report from the United States department of justice found that, nationally, law enforcement suicides are 28.2 per one hundred thousand for men and 12.2 per one hundred thousand for women. A 2018 report by the Ruderman family foundation found that law enforcement officers are one and one-half times more likely to die by suicide than the general population.

(4) Despite these significant risk factors, there is no central repository of comprehensive data regarding law enforcement officer suicides. As a result, there are no comprehensive tools available to law enforcement agencies to develop effective suicide prevention strategies, or to know whether those strategies are making a difference.

(5) Although Washington state has conducted significant work towards suicide prevention more broadly, there is not a current statewide program that provides comprehensive, evidence-based mental health and suicide prevention resources for law enforcement and their families.

(6) The legislature finds that there is an urgent need to develop resources and interventions specifically targeted at helping law enforcement and their family members manage their behavioral health needs.

NEW SECTION. Sec. 2. (1)(a) The department of health shall convene a task force on law enforcement officer mental health and wellness in Washington state with members as provided in this subsection:

- (i) The secretary of health, or the secretary's designee;
- (ii) The chief of the Washington state patrol, or the chief's designee;
- (iii) The director of the health care authority, or the director's designee;
- (iv) The secretary of the department of corrections, or the secretary's designee;
- (v) A representative from the University of Washington's forefront suicide prevention program;
- (vi) The executive director of the criminal justice training

commission, or the director's designee;

- (vii) A psychiatrist;
- (viii) A representative of local public health;
- (ix) One representative each from:
 - (A) The Washington council of police and sheriffs;
 - (B) The Washington state fraternal order of police;
 - (C) The council of metropolitan police and sheriffs;
 - (D) The Washington state patrol troopers association;
 - (E) The Washington state patrol lieutenants and captains association;
 - (F) Tribal law enforcement;
 - (G) The Washington association of sheriffs and police chiefs;
 - (H) An association representing community behavioral health agencies;
 - (I) An association representing mental health providers; and
 - (J) An association representing substance use disorder treatment providers.

(b) The representative from the department of health shall serve as the chair of the task force.

(c) At a minimum, the task force shall meet quarterly.

(2) The task force shall review the following issues and information:

(a) Data related to the behavioral health status of law enforcement officers, including suicide rates, substance abuse rates, posttraumatic stress disorder, depression, availability of behavioral health services, and utilization of behavioral health services;

(b) Factors unique to the law enforcement community that affect the behavioral health of persons working in law enforcement, including factors affecting suicide rates;

(c) Components that should be addressed in the behavioral health and suicide prevention pilot program established in section 3 of this act, including consideration of components that relate to similar programs funded or partially funded by the bureau of justice assistance and the national institute of justice;

(d) The recommendations of the Washington state department of health's suicide prevention plan and the applicability of the plan's recommendations to law enforcement mental health issues;

(e) The recommendations of the United States department of justice 2019 report to congress on law enforcement mental health and wellness; and

(f) Options to improve the behavioral health status of and reduce prevalent mental health issues and the suicide risk among law enforcement officers and their families.

(3) Staff support for the task force shall be provided by the department of health.

(4) The task force shall report its findings and recommendations to the governor and relevant committees of the legislature by December 1, 2021, including a summary of:

(a) The data to be reviewed described in subsection (2) of this section;

(b) The results of the pilot projects funded by this act and recommendations regarding the continuation of those programs;

(c) The best practices and policies for providing mental health services and preventing law enforcement suicides; and

(d) Recommendations on resources and technical assistance to support law enforcement agencies in preventing law enforcement suicides.

(5) This section expires July 1, 2022.

NEW SECTION. Sec. 3. (1) Subject to the availability of amounts appropriated for this specific purpose not to exceed three hundred thousand dollars per fiscal year, the Washington association of sheriffs and police chiefs shall establish three pilot projects to support behavioral health improvement and suicide prevention efforts for law enforcement officers.

(2) The Washington association of sheriffs and police chiefs shall establish a competitive grant program to award funding for the three pilot projects by September 1, 2020.

(3) Law enforcement associations and agencies are eligible to compete for grant funding.

(4) The following programs and activities are eligible for grant funding:

- (a) Public information and wellness promotion campaigns;
- (b) Embedded mental health professionals;
- (c) Peer support programs;
- (d) Resiliency training programs; and
- (e) Critical incident stress management programs.

(5) Grantees must provide a report to the association on the results of their program by October 1, 2021. The association must provide the information to the officer mental health and wellness task force established in section 2 of this act, for incorporation in the December 1, 2021, report to the governor and relevant committees of the legislature."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6570.

Senator King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6570.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6570 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6570, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6570, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 6570, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6429

with the following amendment(s): 6429-S AMH KILD THOC 093

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that the health and safety of the traveling public, law enforcement, and emergency medical service providers are enhanced by the voluntary sharing of information about medical conditions, including deafness and developmental disabilities. Licensed drivers and applicants who wish to voluntarily include a medical alert designation on their driver's license may provide law enforcement and emergency medical service providers with the opportunity to know at the point of contact or shortly thereafter that there is a medical condition which could affect communication or account for a driver health emergency. By taking action in accordance with existing driver privacy protections, the legislature seeks to enhance health and public safety by the voluntary provision and careful use of this information.

Sec. 2. RCW 46.20.117 and 2018 c 157 s 2 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

- (a) Does not hold a valid Washington driver's license;
- (b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. Except as provided in subsection ((5)) (7) of this section, the fee is fifty-four dollars, unless an applicant is:

(i) A recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services;

(ii) Under the age of eighteen and does not have a permanent residence address as determined by the department by rule; or

(iii) An individual who is scheduled to be released from an institution as defined in RCW 13.40.020, a community facility as defined in RCW 72.05.020, or other juvenile rehabilitation facility operated by the department of social and health services or the department of children, youth, and families; or an individual who has been released from such an institution or facility within thirty calendar days before the date of the application.

For those persons under (c)(i) through (iii) of this subsection, the fee must be the actual cost of production of the identicard.

(2)(a) **Design and term.** The identicard must:

(i) Be distinctly designed so that it will not be confused with the official driver's license; and

(ii) Except as provided in subsection ((5)) (7) of this section, expire on the sixth anniversary of the applicant's birthdate after issuance.

(b) The identicard may include the person's status as a veteran, consistent with RCW 46.20.161((2)) (4).

(c) If applicable, the identicard may include a medical alert designation as provided in subsection (5) of this section.

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

- (a) Personal appearance before the department; or
- (b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use

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the card in violation of RCW 46.20.0921.

(5) Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on an identicard issued under this chapter by providing:

(a) Self-attestation that the individual:

(i) Has a medical condition that could affect communication or account for a health emergency;

(ii) Is deaf or hard of hearing; or

(iii) Has a developmental disability as defined in RCW 71A.10.020;

(b) A statement from the person that they have voluntarily provided the self-attestation and other information verifying the condition; and

(c) For persons under eighteen years of age or who have a developmental disability, the signature of a parent or legal guardian.

(6) A self-attestation or data contained in a self-attestation provided under this section:

(a) Shall not be disclosed; and

(b) Is for the confidential use of the director, the chief of the Washington state patrol, and law enforcement and emergency medical service providers as designated by law.

(7) Alternative issuance/renewal/extension. The department may issue or renew an identicard for a period other than six years, or may extend by mail or electronic commerce an identicard that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders. The fee for an identicard issued or renewed for a period other than six years, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

Sec. 3. RCW 46.20.161 and 2018 c 69 s 1 are each amended to read as follows:

(1) The department, upon receipt of a fee of forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless the driver's license is issued for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, in which case the fee shall be nine dollars for each year that the license is issued, which includes the fee for the required photograph, shall issue to every qualifying applicant a driver's license. A driver's license issued to a person under the age of eighteen is an intermediate license, subject to the restrictions imposed under RCW 46.20.075, until the person reaches the age of eighteen.

(2) The license must include:

(a) A distinguishing number assigned to the licensee(,);

(b) The name of record(,);

(c) Date of birth(,);

(d) Washington residence address(,);

(e) Photograph(,);

(f) A brief description of the licensee(,);

(g) Either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with pen and ink immediately upon receipt of the license(, and,);

(h) If applicable, the person's status as a veteran as provided in subsection ((2)) (4) of this section; and

(i) If applicable, a medical alert designation as provided in subsection (5) of this section.

(3) No license is valid until it has been ((so)) signed by the licensee.

((2)) (4)(a) A veteran, as defined in RCW 41.04.007, or an individual who otherwise meets the criteria of RCW 41.04.007 but who has received a general discharge under honorable

conditions, may apply to the department to obtain a veteran designation on a driver's license issued under this section by providing:

(((a))) (i) A United States department of veterans affairs identification card or proof of service letter;

(((b))) (ii) A United States department of defense discharge document, DD Form 214 or DD Form 215, as it exists on June 7, 2018, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, or equivalent or successor discharge paperwork, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's service in the armed forces of the United States;

(((c))) (iii) A national guard state-issued report of separation and military service, NGB Form 22, as it exists on June 7, 2018, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, or equivalent or successor discharge paperwork, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's active duty or reserve service in the national guard; or

(((d))) (iv) A United States uniformed services identification card, DD Form 2, that displays on its face that it has been issued to a retired member of any of the armed forces of the United States, including the national guard and armed forces reserves.

(b) The department may permit a veteran, as defined in RCW 41.04.007, or an individual who otherwise meets the criteria of RCW 41.04.007 but who has received a general discharge under honorable conditions, to submit an alternate form of documentation to apply to obtain a veteran designation on a driver's license, as specified by rule, that requires a discharge status of "honorable" or "general under honorable conditions" and that establishes the person's service as required under RCW 41.04.007.

(5) Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on a driver's license issued under this chapter by providing:

(a) Self-attestation that the individual:

(i) Has a medical condition that could affect communication or account for a driver health emergency;

(ii) Is deaf or hard of hearing; or

(iii) Has a developmental disability as defined in RCW 71A.10.020;

(b) A statement from the person that they have voluntarily provided the self-attestation and other information verifying the condition; and

(c) For persons under eighteen years of age or who have a developmental disability, the signature of a parent or legal guardian.

(6) A self-attestation or data contained in a self-attestation provided under this section:

(a) Shall not be disclosed;

(b) Is for the confidential use of the director, the chief of the Washington state patrol, and law enforcement and emergency medical service providers as designated by law; and

(c) Is subject to the privacy protections of the driver's privacy protection act, 18 U.S.C. Sec. 2725.

NEW SECTION. Sec. 4. This act takes effect January 1, 2022."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Brown moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6429.

Senator Brown spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brown that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6429.

The motion by Senator Brown carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6429 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6429, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6429, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yeas: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 6429, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REMARKS BY THE PRESIDENT

President Habib: "Ladies and Gentlemen, I have an important announcement. I ask that senators come onto the floor. Those in the wings, please come on to the floor for, today is a day, another important day. It seems like these happen all the time. Senator Sheldon, would you please stand. Young man. It is, well I think we all wish we could give Senator Sheldon a skylight for his birthday, but failing that, let's wish him a Happy Birthday. Thank you Senator Sheldon. You don't have any wise remarks for us, do you?"

The Senate rose in recognition of the anniversary of the birth of Senator Sheldon and performed a rendition of "Happy Birthday."

MESSAGE FROM THE HOUSE

March 5, 2020

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5385 with the following amendment(s): 5385-S.E AMH APP H5347.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.43.735 and 2017 c 219 s 1 are each

amended to read as follows:

(1)(a) For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

~~((a))~~ (i) The plan provides coverage of the health care service when provided in person by the provider;

~~((b))~~ (ii) The health care service is medically necessary;

~~((c))~~ (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and

~~((d))~~ (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.

(b)(i) Except as provided in (b)(ii) of this subsection, for health plans issued or renewed on or after January 1, 2021, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that differs from the reimbursement rate for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

~~2)((a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.~~

~~((b))~~ For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Community mental health center;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the

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covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

- (7) This section does not require a health carrier to reimburse:
 - (a) An originating site for professional fees;
 - (b) A provider for a health care service that is not a covered benefit under the plan; or
 - (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

- (8) For purposes of this section:
 - (a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;
 - (b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(e) "Provider" has the same meaning as in RCW 48.43.005;

(f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(g) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

Sec. 2. RCW 41.05.700 and 2018 c 260 s 30 are each amended to read as follows:

(1)(a) A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

~~((a))~~ (i) The plan provides coverage of the health care service when provided in person by the provider;

~~((b))~~ (ii) The health care service is medically necessary;

~~((c))~~ (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and

~~((d))~~ (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.

(b)(i) Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that

differs from the reimbursement rate for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

~~(2)((a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.~~

~~(b))~~ For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

- (a) Hospital;
- (b) Rural health clinic;
- (c) Federally qualified health center;
- (d) Physician's or other health care provider's office;
- (e) Community mental health center;
- (f) Skilled nursing facility;
- (g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health plan. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require the plan to reimburse:

- (a) An originating site for professional fees;
- (b) A provider for a health care service that is not a covered benefit under the plan; or
- (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(e) "Provider" has the same meaning as in RCW 48.43.005;

(f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(g) "Telemedicine" means the delivery of health care services

through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

Sec. 3. RCW 74.09.325 and 2017 c 219 s 3 are each amended to read as follows:

(1)(a) Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

~~((a))~~ (i) The medicaid managed care plan in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

~~((b))~~ (ii) The health care service is medically necessary;

~~((c))~~ (iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; and

~~((d))~~ (iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information.

(b)(i) Except as provided in (b)(ii) of this subsection, upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine at the same rate as if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate a reimbursement rate for telemedicine services that differs from the reimbursement rate for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

~~(2)((a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.~~

~~((b))~~ For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the managed health care system and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

- (a) Hospital;
- (b) Rural health clinic;
- (c) Federally qualified health center;
- (d) Physician's or other health care provider's office;
- (e) Community mental health center;
- (f) Skilled nursing facility;
- (g) Home or any location determined by the individual receiving the service; or
- (h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement

for a facility fee must be subject to a negotiated agreement between the originating site and the managed health care system. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A managed health care system may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A managed health care system may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a managed health care system to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(f) "Provider" has the same meaning as in RCW 48.43.005;

(g) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(h) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) To measure the impact on access to care for underserved communities and costs to the state and the medicaid managed health care system for reimbursement of telemedicine services, the Washington state health care authority, using existing data and resources, shall provide a report to the appropriate policy and fiscal committees of the legislature no later than December 31, 2018.

Sec. 4. RCW 28B.20.830 and 2018 c 256 s 1 are each amended to read as follows:

(1) The collaborative for the advancement of telemedicine is created to enhance the understanding and use of health services

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provided through telemedicine and other similar models in Washington state. The collaborative shall be hosted by the University of Washington telehealth services and shall be comprised of one member from each of the two largest caucuses of the senate and the house of representatives, and representatives from the academic community, hospitals, clinics, and health care providers in primary care and specialty practices, carriers, and other interested parties.

(2) By July 1, 2016, the collaborative shall be convened. The collaborative shall develop recommendations on improving reimbursement and access to services, including originating site restrictions, provider to provider consultative models, and technologies and models of care not currently reimbursed; identify the existence of telemedicine best practices, guidelines, billing requirements, and fraud prevention developed by recognized medical and telemedicine organizations; and explore other priorities identified by members of the collaborative. After review of existing resources, the collaborative shall explore and make recommendations on whether to create a technical assistance center to support providers in implementing or expanding services delivered through telemedicine technologies.

(3) The collaborative must submit an initial progress report by December 1, 2016, with follow-up policy reports including recommendations by December 1, 2017, December 1, 2018, and December 1, 2021. The reports shall be shared with the relevant professional associations, governing boards or commissions, and the health care committees of the legislature.

(4) The collaborative shall study store and forward technology, with a focus on:

(a) Utilization;

(b) Whether store and forward technology should be paid for at parity with in-person services;

(c) The potential for store and forward technology to improve rural health outcomes in Washington state; and

(d) Ocular services.

(5) The meetings of the board shall be open public meetings, with meeting summaries available on a web page.

~~((5))~~ (6) The future of the collaborative shall be reviewed by the legislature with consideration of ongoing technical assistance needs and opportunities. The collaborative terminates December 31, 2021.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5385.

Senator Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5385.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5385 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5385, as

amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5385, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5385, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2020

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5640 with the following amendment(s): 5640-S AMH CRJ H5143.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 3.72.005 and 2017 c 9 s 1 are each amended to read as follows:

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

(1) "Court" when used without further qualification means the district court under chapter 3.30 RCW, the municipal department under chapter 3.46 RCW, or the municipal court under chapter 3.50 or 35.20 RCW.

(2) "Traffic infraction" means those acts defined as traffic infractions by RCW 46.63.020.

(3) "Transit infraction" means an infraction issued by a transit authority as defined in RCW 9.91.025(2)(c), including those infractions authorized under RCW 35.58.580, 36.57A.230, and 81.112.220.

(4) "Youth court" means an alternative method of hearing and disposing of traffic infractions, transit infractions, or civil infractions for juveniles age sixteen or seventeen.

Sec. 2. RCW 3.72.010 and 2017 c 9 s 2 are each amended to read as follows:

(1) A court created under chapter 3.30, 3.46, 3.50, or 35.20 RCW may create a youth court. The youth court shall have jurisdiction over civil, traffic, and transit infractions alleged to have been committed by juveniles age sixteen or seventeen. The court may refer a juvenile to the youth court upon request of any party or upon its own motion. However, a juvenile shall not be required under this section to have his or her civil, traffic, or transit infraction referred to or disposed of by a youth court.

(2) To be referred to a youth court pursuant to this chapter, a juvenile:

(a) ~~((May not have had a prior traffic or transit infraction referred to a youth court;~~

~~b))~~ May not be under the jurisdiction of any court for a civil

infraction or for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025;

((~~ε~~)) (b) May not have any convictions for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025; and

((~~δ~~)) (c) Must acknowledge that there is a high likelihood that he or she would be found to have committed the civil, traffic, or transit infraction.

(3)(a) Nothing in this chapter shall interfere with the ability of juvenile courts to refer matters to youth courts that have been established to provide a diversion for matters involving juvenile offenders who are eligible for diversion pursuant to RCW 13.40.070 (6) and (8) and who agree, along with a parent, guardian, or legal custodian, to comply with the provisions of RCW 13.40.600.

(b) Nothing in this chapter shall interfere with the ability of student courts to work with students who violate school rules and policies pursuant to RCW 28A.300.420.

(4) A youth court under this chapter may accept referrals of traffic infractions, transit infractions, and civil infractions committed by juveniles age twelve through fifteen from a juvenile court diversion unit under RCW 13.40.250(5), provided that the youth court follows all conditions of RCW 13.40.250(5). In this circumstance, the youth court shall maintain concurrent jurisdiction with the juvenile court only for the purpose of supervision of the diversion agreement.

Sec. 3. RCW 3.72.020 and 2017 c 9 s 3 are each amended to read as follows:

(1) A youth court agreement shall be a contract between a juvenile accused of a traffic ((~~ε~~)) infraction, transit infraction, or civil infraction and a court whereby the juvenile agrees to fulfill certain conditions imposed by a youth court in lieu of a determination that ((~~a traffic or transit~~)) the infraction occurred. Such agreements may be entered into only after the law enforcement authority has determined that probable cause exists to believe that a traffic ((~~ε~~)) infraction, transit infraction, or civil infraction has been committed and that the juvenile committed it. A youth court agreement shall be reduced to writing and signed by the court and the youth accepting the terms of the agreement. Such agreements shall be entered into as expeditiously as possible.

(2) Conditions imposed on a juvenile by a youth court shall be limited to one or more of the following:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Attendance at defensive driving school or driver improvement education classes or, in the discretion of the court, a like means of fulfilling this condition. The state shall not be liable for costs resulting from the youth court or the conditions imposed upon the juvenile by the youth court;

(c) A monetary penalty, not to exceed one hundred dollars. All monetary penalties assessed and collected under this section shall be deposited and distributed in the same manner as costs, fines, forfeitures, and penalties are assessed and collected under RCW 2.68.040, 3.46.120, 3.50.100, 3.62.020, 3.62.040, 35.20.220, and 46.63.110(7), regardless of the juvenile's successful or unsuccessful completion of the youth court agreement;

(d) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas;

(e) Participating in law-related education classes;

(f) Providing periodic reports to the youth court or the court;

(g) Participating in mentoring programs;

(h) Serving as a participant in future youth court proceedings;

(i) Writing apology letters; or

(j) Writing essays.

(3) Youth courts may require that the youth pay any costs associated with conditions imposed upon the youth by the youth court.

(a) A youth court disposition shall be completed within one hundred eighty days from the date of referral.

(b) The court, as specified in RCW 3.72.010, shall monitor the successful or unsuccessful completion of the disposition.

(4) A youth court agreement may extend beyond the eighteenth birthday of the youth.

(5) Any juvenile who is, or may be, referred to a youth court shall be afforded due process in all contacts with the youth court regardless of whether the juvenile is accepted by the youth court or whether the youth court program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written agreement shall be executed stating all conditions in clearly understandable language and the action that will be taken by the court upon successful or unsuccessful completion of the agreement;

(b) Violation of the terms of the agreement shall be the only grounds for termination.

(6) The youth court shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during youth court hearings or negotiations.

(7) The court shall be responsible for advising a juvenile of his or her rights as provided in this chapter.

(8) When a juvenile enters into a youth court agreement, the court may receive only the following information for dispositional purposes:

(a) The fact that a traffic ((~~ε~~)) infraction, transit infraction, or civil infraction was alleged to have been committed;

(b) The fact that a youth court agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the juvenile performed his or her obligations under such agreement; and

(e) The facts of the alleged ((~~traffic or transit~~)) infraction.

(9) A court may refuse to enter into a youth court agreement with a juvenile. When a court refuses to enter a youth court agreement with a juvenile, it shall set the matter for hearing in accordance with all applicable court rules and statutory provisions governing the hearing and disposition of traffic ((~~and~~)) infractions, transit infractions, and civil infractions.

(10) If a monetary penalty required by a youth court agreement cannot reasonably be paid due to a lack of financial resources of the youth, the court may convert any or all of the monetary penalty into community service. The modification of the youth court agreement shall be in writing and signed by the juvenile and the court. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

Sec. 4. RCW 3.72.040 and 2017 c 9 s 5 are each amended to read as follows:

The administrative office of the courts shall encourage the courts to work with cities, counties, and schools to implement, expand, or use youth court programs for juveniles who commit traffic ((~~ε~~)) infractions, transit infractions, or civil infractions. Program operations of youth court programs may be funded by government and private grants. Youth court programs are limited to those that:

(1) Are developed using the guidelines for creating and operating youth court programs developed by nationally recognized experts in youth court projects;

(2) Target youth ((~~ages sixteen and seventeen~~)) who are alleged to have committed a traffic ((~~ε~~)) infraction, transit infraction, or

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civil infraction; and

- (3) Emphasize the following principles:
 - (a) Youth must be held accountable for their problem behavior;
 - (b) Youth must be educated about the impact their actions have on themselves and others including their victims, their families, and their community;
 - (c) Youth must develop skills to resolve problems with their peers more effectively; and
 - (d) Youth should be provided a meaningful forum to practice and enhance newly developed skills.

Sec. 5. RCW 13.40.250 and 2002 c 237 s 19 and 2002 c 175 s 28 are each reenacted and amended to read as follows:

A traffic infraction, transit infraction, or civil infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of a traffic infraction, transit infraction, or civil infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic infraction, transit infraction, or civil infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community restitution in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community restitution, or educational or informational sessions.

(4) Traffic infractions, transit infractions, or civil infractions referred to a youth court pursuant to this section are subject to the conditions imposed by RCW 13.40.630.

~~(5) (If a case involving the commission of a traffic or civil infraction or offense by a juvenile under the age of sixteen has been referred to a diversion unit, an abstract of the action taken by the diversion unit may be forwarded to the department of licensing in the manner provided for in RCW 46.20.270(2).) A diversion agreement entered into by a juvenile referred pursuant to this section may include a requirement that the juvenile participate in a district or municipal youth court program under chapter 3.72 RCW, provided the youth court program accepts the referral and only subject to the following conditions:~~

(a) Upon entering the diversion agreement, the juvenile shall be referred to the youth court program, the completion of which shall be the only condition of the diversion agreement;

(b) The juvenile shall not serve more than thirty hours of participation in the youth court program;

(c) Other than filing a petition for termination of the diversion agreement in juvenile court, nothing concerning the juvenile's participation in the youth court program shall be filed in any public court file concerning the juvenile's participation or presence in the youth court program. The only written record of participation shall be the diversion agreement entered into with the juvenile court, subject to confidentiality under chapter 13.50 RCW. No court cause number shall be assigned to the case against the juvenile while he or she participates in the youth court program. The proceedings in the youth court program shall be on open record and may be recorded if necessary;

(d) Nothing concerning the alleged offense or the diversion shall be reported to the department of licensing;

(e) The youth court program may refer the juvenile back to the juvenile diversion unit for termination of the diversion agreement due to noncompliance at any time prior to completion; and

(f) The juvenile court diversion unit shall maintain primary

jurisdiction over supervision of the juvenile during his or her participation in the youth court program. The youth court shall notify the diversion unit upon completion of the youth court program and the diversion agreement shall be complete."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Holy moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5640.

Senator Holy spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Holy that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5640.

The motion by Senator Holy carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5640 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5640, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5640, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Muzzall, Nguyen, O'Ban, Padden, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 5640, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

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

- ENGROSSED SUBSTITUTE SENATE BILL NO. 5006,
- ENGROSSED SENATE BILL NO. 5450,
- ENGROSSED SENATE BILL NO. 5457,
- ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5481,
- SENATE BILL NO. 5519,
- SUBSTITUTE SENATE BILL NO. 5900,
- SUBSTITUTE SENATE BILL NO. 6072,
- SENATE BILL NO. 6078,
- SENATE BILL NO. 6102,
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MOTION

At 3:08 p.m., on motion of Senator Lias, the Senate adjourned until 9:00 o'clock a.m. Tuesday, March 10, 2020.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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